

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
DUNNIGAN WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM THE SACRAMENTO RIVER DIVISION

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Exhibit A - Map of Contractor's Boundaries

Exhibit B - Rates and Charges

1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
6 AND
7 DUNNIGAN WATER DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM THE SACRAMENTO RIVER DIVISION

10 THIS CONTRACT, made this 25th day of February, 2005, in
11 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
12 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as
13 amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2,
14 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986
15 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all
16 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES
17 OF AMERICA, hereinafter referred to as the United States, and DUNNIGAN WATER DISTRICT,
18 hereinafter referred to as the Contractor, a public agency of the State of California, duly organized,
19 existing, and acting pursuant to the laws thereof;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
23 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for
24 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection
25 and restoration, generation and distribution of electric energy, salinity control, navigation and
26 other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River,
27 and the San Joaquin River and their tributaries; and

28 [2nd] WHEREAS, the United States constructed the Red Bluff Diversion Dam, and the
29 Tehama-Colusa Canal and related delivery facilities including pumping plants, hereinafter
30 collectively referred to as the Canal Facilities, which will be used in part for the furnishing of
31 water to the Contractor pursuant to the terms of this Contract; and

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

34 [4th] WHEREAS, the Contractor and the United States entered into Contract
35 No. 14-06-200-399-A, which established terms for the delivery to the Contractor of Project
36 Water from the Canal Facilities from February 5, 1963, through February 28, 1995, and under
37 which the initial date of water delivery to the Contractor was January 1, 1983; and

38 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection
39 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
40 interim renewal contract(s) identified as Contract No(s). 14-06-200-399-A-IR1, 14-06-200-399-
41 A-IR2, 14-06-200-399-A-IR3, 14-06-200-399-A-IR4, 14-06-200-399-A-IR5, 14-06-200-399-A-
42 IR6, 14-06-200-399-A-IR7, and 14-06-200-399-A-IR8, the current of which is hereinafter
43 referred to as the Existing Contract, which provided for the continued water service to the
44 Contractor from March 1, 2004, through February 28, 2006; and

45 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
46 Existing Contract following completion of appropriate environmental documentation, including a

47 programmatic environmental impact statement (PEIS) pursuant to the National Environmental
48 Policy Act (NEPA), analyzing the direct and indirect impacts and benefits of implementing the
49 CVPIA and the potential renewal of all existing contracts for Project Water; and

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

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

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

57 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
58 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
59 reasonable and beneficial use and, based upon a needs analysis cooperatively prepared by the
60 Contracting Officer and the Contractor, has demonstrated projected future demand for water use
61 that exceeds the Contract Total to be made available to it pursuant to this Contract; and

62 [11th] WHEREAS, water obtained from the Project has been relied upon by urban and
63 agricultural areas within California for more than 50 years, and is considered by the Contractor
64 as an essential portion of its water supply; and

65 [12th] WHEREAS, the economies of regions within the Project, including the
66 Contractor's, depend upon the continued availability of water, including water service from the
67 Project; and

68 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and
69 partnerships to pursue measures to improve water supply, water quality, and reliability of the
70 Project for all Project purposes; and

71 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
72 provide for reliable Project Water supplies; to control costs of those supplies; to achieve

73 repayment of the Project as required by law; to guard reasonably against Project Water
74 shortages; to achieve a reasonable balance among competing demands for use of Project Water;
75 and to comply with all applicable environmental statutes, all consistent with the legal obligations
76 of the United States relative to the Project; and

77 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
78 relationship in order to achieve their mutual goals; and

79 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
80 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

83 DEFINITIONS

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

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

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

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

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

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

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

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

105 (h) "Eligible Lands" shall mean all lands to which Irrigation Water may be
106 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
107 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

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

111 (j) "Full Cost Rate" shall mean an annual rate, as determined by the
112 Contracting Officer that shall amortize the expenditures for construction properly allocable to the
113 Project irrigation or M&I functions, as appropriate, of facilities in service including all O&M
114 deficits funded, less payments, over such periods as may be required under Federal Reclamation
115 law, or applicable contract provisions. Interest will accrue on both the construction expenditures
116 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the
117 date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated
118 in accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes
119 actual operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules
120 and Regulations for the RRA. The Full Cost Rate used to compute the Tiered Pricing
121 Component defined in subdivision (y) of this Article does not include the costs associated with
122 the Contractor's Irrigation Water distribution works constructed by the United States. However,
123 the Irrigation Full Cost Water Rate defined in subdivision (l) of this Article does include such
124 costs;

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

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

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

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

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

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

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

146 (r) "Operating Non-Federal Entity" shall mean the Tehama-Colusa Canal
147 Authority, its successors or assigns, a non-Federal entity which has the obligation to operate and
148 maintain all or a portion of the Canal Facilities pursuant to an agreement with the United States,
149 and which may have funding obligations with respect thereto;

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

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

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

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

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

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

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

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

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

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

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

180 TERM OF CONTRACT

181 2. (a) This Contract shall be effective March 1, 2005, through February 28,
182 2030, and supersedes the Existing Contract. In the event the Contractor wishes to renew this
183 Contract beyond February 28, 2030, the Contractor shall submit a request for renewal in writing
184 to the Contracting Officer no later than two years prior to the date this Contract expires. The
185 renewal of this Contract insofar as it pertains to the furnishing of Irrigation Water to the
186 Contractor shall be governed by subdivision (b) of this Article, and the renewal of this Contract
187 insofar as it pertains to the furnishing of M&I Water to the Contractor shall be governed by
188 subdivision (c) of this Article.

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

194 (2) The conditions which must be met for this Contract to be renewed
195 are: (i) the Contractor has prepared a water conservation plan that has been determined by the
196 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and
197 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is
198 implementing an effective water conservation and efficiency program based on the Contractor's
199 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is
200 maintaining all water measuring devices and implementing all water measurement methods as

201 approved by the Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor
202 has reasonably and beneficially used the Project Water supplies made available to it and, based
203 on projected demands, is reasonably anticipated and expects to fully utilize for reasonable and
204 beneficial use the quantity of Project Water to be made available to it pursuant to such renewal;
205 (v) the Contractor is complying with all terms and conditions of this Contract; and (vi) the
206 Contractor has the physical and legal ability to deliver Project Water.

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

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

225 (d) The Contracting Officer shall make a determination ten years after the
226 date of execution of this Contract, and every five years thereafter during the term of this

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

233 Notwithstanding any provision of this Contract, the Contractor reserves and shall have all rights
234 and benefits under Act of July 2, 1956 (70 Stat 483). The Contracting Officer anticipates that
235 during the term of this Contract, all authorized Project construction expected to occur will have
236 occurred, and on that basis the Contracting Officer agrees upon such completion to allocate all
237 costs that are properly assignable to the Contractor, and agrees further that, at any time after such
238 allocation is made, and subject to satisfaction of the condition set out in this subdivision, this
239 Contract shall, at the request of the Contractor, be converted to a contract under subsection 9(d)
240 or 9(c)(1), whichever is applicable, of the Reclamation Project Act of 1939, subject to applicable
241 Federal law and under stated terms and conditions mutually agreeable to the Contractor and the
242 Contracting Officer. A condition for such conversion to occur shall be a determination by the
243 Contracting Officer that, account being taken of the amount credited to return by the Contractor
244 as provided for under Federal Reclamation law, the remaining amount of construction costs
245 assignable for ultimate return by the Contractor can probably be repaid to the United States
246 within the term of a contract under said subsection 9(d) or 9(c)(1), whichever is applicable. If
247 the remaining amount of costs that are properly assignable to the Contractor cannot be
248 determined during the term of this Contract, the Contracting Officer shall notify the Contractor,
249 and provide the reason(s) why such a determination could not be made. Further, the Contracting
250 Officer shall make such a determination as soon thereafter as possible so as to permit, upon
251 request of the Contractor and satisfaction of the condition set out above, conversion to a contract
252 under subsection 9(d) or 9(c)(1), whichever is applicable. In the event such determination of

253 costs has not been made at a time which allows conversion of this Contract during the term of
254 this Contract or the Contractor has not requested conversion of this Contract within such term,
255 the parties shall incorporate in any subsequent renewal contract as described in subdivision (b) of
256 this Article a provision that carries forth in substantially identical terms the provisions of this
257 subdivision.

258 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

259 3. (a) During each Year, consistent with all applicable State water rights,
260 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of
261 this Contract, the Contracting Officer shall make available for delivery to the Contractor 19,000
262 acre-feet of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in
263 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of
264 Articles 4 and 7 of this Contract.

265 (b) Because the capacity of the Project to deliver Project Water has been
266 constrained in recent years and may be constrained in the future due to many factors including
267 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
268 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this
269 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the
270 PEIS projected that the Contract Total set forth in this Contract will not be available to the
271 Contractor in many years. During the most recent five years, the Recent Historic Average of
272 water made available to the Contractor was 17,480 acre-feet. Nothing in subdivision (b) of this
273 Article shall affect the rights and obligations of the parties under any provision of this Contract.

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

276 (d) The Contractor shall make reasonable and beneficial use of water
277 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu),
278 groundwater banking programs, surface water storage programs, and other similar programs

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

292 (e) The Contractor shall comply with requirements applicable to the
293 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
294 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),
295 as amended, that are within the Contractor's legal authority to implement. The Existing
296 Contract, which evidences in excess of 20 years of diversions for irrigation and/or M&I purposes
297 of the quantities of water provided in subdivision (a) of Article 3 of this Contract, will be
298 considered in developing an appropriate baseline for biological assessment(s) prepared pursuant
299 to the ESA, and any other needed environmental review. Nothing herein shall be construed to
300 prevent the Contractor from challenging or seeking judicial relief in a court of competent
301 jurisdiction with respect to any biological opinion or other environmental documentation referred
302 to in this Article.

303 (f) As soon as possible following each declaration of Water Made Available
304 under Article 4 of this Contract, the Contracting Officer will make a determination whether

305 Project Water, or other water available to the Project, can be made available to the Contractor in
306 addition to the Contract Total under Article 3 of this Contract during the Year without adversely
307 impacting other Project Contractors. At the request of the Contractor, the Contracting Officer
308 will consult with the Contractor prior to making such a determination. If the Contracting Officer
309 determines that Project Water, or other water available to the Project, can be made available to
310 the Contractor, the Contracting Officer will announce the availability of such water and shall so
311 notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the
312 Contractor and other Project Contractors capable of taking such water to determine the most
313 equitable and efficient allocation of such water. If the Contractor requests the delivery of any
314 quantity of such water, the Contracting Officer shall make such water available to the Contractor
315 in accordance with applicable statutes, regulations, guidelines, and policies.

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

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

331 (i) Project Water furnished to the Contractor pursuant to this Contract may be
332 delivered for other than irrigation or M&I purposes upon written approval by the Contracting
333 Officer in accordance with the terms and conditions of such approval.

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

342 TIME FOR DELIVERY OF WATER

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

352 (b) On or before each March 1 and at such other times as necessary, the
353 Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the
354 Contracting Officer, showing the monthly quantities of Project Water to be delivered by the
355 United States to the Contractor pursuant to this Contract for the Year commencing on such

356 March 1. The Contracting Officer shall use all reasonable means to deliver Project Water
357 according to the approved schedule for the Year commencing on such March 1.

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

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

367 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

368 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
369 Contract shall be delivered to the Contractor at approved turnouts on the Canal Facilities and any
370 additional point or points of delivery either on Project facilities or another location or locations
371 mutually agreed to in writing by the Contracting Officer and the Contractor. The United States
372 shall furnish such power as may be necessary to pump Project Water at the existing Tehama-
373 Colusa Canal side pumping plants and at existing relift stations at heads and elevations sufficient
374 to irrigate by gravity all areas within the Contractor's Boundaries below elevation 380 (MSL).

375 (b) The Contracting Officer, either directly or through its written agreement(s)
376 with the Operating Non-Federal Entity/Entities shall make all reasonable efforts to maintain
377 sufficient flows and levels of water in Project facilities to deliver Project Water to the Contractor
378 at specific turnouts established pursuant to subdivision (a) of this Article. The parties
379 acknowledge that it may be necessary from time to time to shut down some or all of Project facilities for
380 maintenance or emergencies. Except in the case of emergency, the Contracting Officer shall
381 consult with the Contractor to schedule the shutdown at such times and for such duration as will

382 allow for the work to be accomplished completely and efficiently, and with a minimum of
383 disruption of water service to the Contractor. In this regard, shutdowns will, to the extent
384 reasonably possible, be limited to the months of December and January.

385 (c) The Contractor shall deliver Irrigation Water in accordance with any
386 applicable land classification provisions of Federal Reclamation law and the associated
387 regulations. The Contractor shall not deliver Project Water to land outside the Contractor's
388 Boundaries unless approved in advance by the Contracting Officer.

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

399 (e) Neither the Contracting Officer nor any Operating Non-Federal
400 Entity/Entities shall be responsible for the control, carriage, handling, use, disposal, or
401 distribution of Water Delivered to the Contractor pursuant to this Contract beyond the delivery
402 points specified in subdivision (a) of this Article. The Contractor shall indemnify the United
403 States, its officers, employees, agents, and assigns on account of damage or claim of damage of
404 any nature whatsoever for which there is legal responsibility, including property damage,
405 personal injury, or death arising out of or connected with the control, carriage, handling, use,
406 disposal, or distribution of such Water Delivered beyond such delivery points, except for any
407 damage or claim arising out of (i) acts or omissions of the Contracting Officer or any of its

408 officers, employees, agents, or assigns, including the Operating Non-Federal Entity/Entities, with
409 the intent of creating the situation resulting in any damage or claim, (ii) willful misconduct of the
410 Contracting Officer or any of its officers, employees, agents, or assigns, including the Operating
411 Non-Federal Entity/Entities, (iii) negligence of the Contracting Officer or any of its officers,
412 employees, agents, or assigns including the Operating Non-Federal Entity/Entities, or (iv)
413 damage or claims resulting from a malfunction of facilities owned and/or operated by the United
414 States or responsible Operating Non-Federal Entity/Entities.

415 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S BOUNDARIES

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

432 (b) To the extent the information has not otherwise been provided, upon
433 execution of this Contract, the Contractor shall provide to the Contracting Officer a written

434 report describing the measurement devices or water measuring methods being used or to be used
435 to implement subdivision (a) of this Article and identifying the agricultural turnouts and the M&I
436 service connections or alternative measurement programs approved by the Contracting Officer,
437 at which such measurement devices or water measuring methods are being used, and, if
438 applicable, identifying the locations at which such devices and/or methods are not yet being used
439 including a time schedule for implementation at such locations. The Contracting Officer shall
440 advise the Contractor in writing within 60 days as to the adequacy and necessary modifications,
441 if any, of the measuring devices or water measuring methods identified in the Contractor's report
442 and if the Contracting Officer does not respond in such time, they shall be deemed adequate. If
443 the Contracting Officer notifies the Contractor that the measuring devices or methods are
444 inadequate, the parties shall within 60 days following the Contracting Officer's response,
445 negotiate in good faith the earliest practicable date by which the Contractor shall modify said
446 measuring devices and/or measuring methods as required by the Contracting Officer to ensure
447 compliance with subdivision (a) of this Article.

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

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

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

457 RATES AND METHOD OF PAYMENT FOR WATER

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

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

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

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

483 comment on such computations and cost allocations. By December 31 of each Calendar Year,
484 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing
485 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B."

486 (c) At the time the Contractor submits the initial schedule for the delivery of
487 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
488 Contractor shall make an advance payment to the United States equal to the total amount payable
489 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
490 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
491 Year. Before the end of the first month and before the end of each calendar month thereafter, the
492 Contractor shall make an advance payment to the United States, at the Rate(s) set under
493 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
494 during the second month immediately following. Adjustments between advance payments for
495 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of
496 the following month; Provided, That any revised schedule submitted by the Contractor pursuant
497 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
498 Contract during any month shall be accompanied with appropriate advance payment, at the Rates
499 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
500 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
501 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
502 additional Project Water shall be delivered to the Contractor unless and until an advance
503 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
504 between the advance payments for the Water Scheduled and payments for the quantities of Water
505 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
506 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried
507 over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last
508 day of February.

509 (d) The Contractor shall also make a payment in addition to the Rate(s) in
510 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
511 appropriate Tiered Pricing Component then in effect, before the end of the month following the
512 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered
513 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be
514 consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the
515 water delivery report for the subject month prepared by the Operating Non-Federal
516 Entity/Entities or, if there is no Operating Non-Federal Entity/Entities, by the Contracting
517 Officer. The water delivery report shall be deemed a bill for the payment of Charges and the
518 applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or
519 underpayment of Charges shall be made through the adjustment of payments due to the United
520 States for Charges for the next month. Any amount to be paid for past due payment of Charges
521 and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

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

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

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

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

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

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

558 established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or
559 M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to
560 subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract
561 Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in
562 the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.
563 Solely for the purpose of calculating the Tiered Pricing Component, the Full Cost Rate shall not
564 include the interest component of the Contractor's water distribution system constructed by the
565 United States and covered by Repayment Contract No. 14-06-200-8311A entered into pursuant
566 to 43 USC 485h(d).

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

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

580 (k) For the term of this Contract, Rates under the respective ratesetting
581 policies will be established to recover only reimbursable O&M (including any deficits) and

582 capital costs of the Project, as those terms are used in the then-current Project ratesetting
583 policies, and interest, where appropriate, except in instances where a minimum Rate is applicable
584 in accordance with the relevant Project ratesetting policy. Changes of significance in practices
585 which implement the Contracting Officer's ratesetting policies will not be implemented until the
586 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and
587 impact of the proposed change.

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

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

598 (n) With respect to the Rates for M&I Water, the Contractor asserts that it is
599 not legally obligated to repay any Project deficits claimed by the United States to have accrued
600 as of the date of this Contract or deficit-related interest charges thereon. By entering into this
601 Contract, the Contractor does not waive any legal rights or remedies that it may have with
602 respect to such disputed issues. Notwithstanding the execution of this Contract, and payments
603 made hereunder, the Contractor may challenge in the appropriate administrative or judicial
604 forums: (1) the existence, computation, or imposition of any deficit charges accruing during the
605 term of the Existing Contract and any preceding interim renewal contracts, if applicable; (2)
606 interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in
607 the Rates; (4) the application by the United States of payments made by the Contractor under its

608 Existing Contract and any preceding interim renewal contracts, if applicable; and (5) the
609 application of such payments in the Rates. The Contracting Officer agrees that the Contractor
610 shall be entitled to the benefit of any administrative or judicial ruling in favor of any other
611 Project M&I contractor on any of these issues and credits for payments heretofore made,
612 Provided, That, the basis for such ruling is applicable to the Contractor.

613 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

617 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

629 (b) In order to facilitate efficient water management by means of water
630 transfers of the type historically carried out among Project Contractors located within the same
631 geographical area and to allow the Contractor to participate in an accelerated water transfer
632 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,
633 all necessary environmental documentation including, but not limited to, documents prepared

634 pursuant to NEPA and ESA, analyzing annual transfers within such geographical areas and the
635 Contracting Officer shall determine whether such transfers comply with applicable law.
636 Following the completion of the environmental documentation, such transfers addressed in such
637 documentation shall be conducted with advance notice to the Contracting Officer, but shall not
638 require prior written approval by the Contracting Officer. Such environmental documentation
639 and the Contracting Officer's compliance determination shall be reviewed every five years and
640 updated, as necessary, prior to the expiration of the then-existing five-year period. All
641 subsequent environmental documentation shall include an alternative to evaluate not less than the
642 quantity of Project Water historically transferred within the same geographical area.

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

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

660 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

677 TEMPORARY REDUCTIONS--RETURN FLOWS

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

683 (b) The Contracting Officer or Operating Non-Federal Entity/Entities may
684 temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as herein
685 provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any

686 of the Project facilities or any part thereof necessary for the delivery of Project Water to the
687 Contractor, but so far as feasible the Contracting Officer or Operating Non-Federal Entity will
688 give the Contractor due notice in advance of such temporary discontinuance or reduction, except
689 in case of emergency, in which case no notice need be given; Provided, That the United States
690 shall use its best efforts to avoid any discontinuance or reduction in such service. Upon
691 resumption of service after such reduction or discontinuance, and if requested by the Contractor,
692 the United States will, if possible, deliver the quantity of Project Water which would have been
693 delivered hereunder in the absence of such discontinuance or reduction.

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

700 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

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

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

720 UNAVOIDABLE GROUNDWATER PERCOLATION

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

725 RULES AND REGULATIONS

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

731 WATER AND AIR POLLUTION CONTROL

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

736 QUALITY OF WATER

737 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant
738 to this Contract shall be operated and maintained to enable the United States to deliver Project

739 Water to the Contractor in accordance with the water quality standards specified in subsection
740 2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of
741 October 27, 1986 (100 Stat. 3050), or other existing Federal laws. The United States is under no
742 obligation to construct or furnish water treatment facilities to maintain or to improve the quality
743 of Water Delivered to the Contractor pursuant to this Contract. The United States does not
744 warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

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

752 WATER ACQUIRED BY THE CONTRACTOR
753 OTHER THAN FROM THE UNITED STATES

754 17. (a) Water or water rights now owned or hereafter acquired by the Contractor
755 other than from the United States and Irrigation Water furnished pursuant to the terms of this
756 Contract may be simultaneously transported through the same distribution facilities of the
757 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water
758 and non-Project water were constructed without funds made available pursuant to Federal
759 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the
760 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive
761 Irrigation Water must be established through the certification requirements as specified in the
762 Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of
763 Eligible Lands within the Contractor's Boundaries can be established and the quantity of
764 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such
765 Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and

766 non-Project water are/were constructed with funds made available pursuant to Federal
767 Reclamation law, the non-Project water will be subject to the acreage limitation provisions of
768 Federal Reclamation law, unless the Contractor pays to the United States the incremental fee
769 described in 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will
770 calculate annually the cost to the Federal Government, including interest, on storing or delivering
771 non-Project water, which for purposes of this Contract shall be determined as follows: The
772 quotient shall be the unpaid distribution system costs divided by the total irrigable acreage within
773 the Contractor's Boundaries. The incremental fee per acre is the mathematical result of such
774 quotient times the interest rate determined using Section 202 (3) of the Act of October 12, 1982
775 (96 Stat. 1263). Such incremental fee will be charged to each acre of excess or full cost land
776 within the Contractor's Boundaries that receives non-Project water through Federally financed or
777 constructed facilities. The incremental fee calculation methodology will continue during the
778 term of this Contract absent the promulgation of a contrary Reclamation-wide rule, regulation, or
779 policy adopted after the Contractor has been afforded the opportunity to review and comment on
780 the proposed rule, regulation, or policy. If such rule, regulation, or policy is adopted it shall
781 supersede this provision.

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

787 (1) The Contractor may introduce non-Project water into Project
788 facilities and deliver said water to lands within the Contractor's Boundaries, including Ineligible
789 Lands, subject to payment to the United States and/or to any applicable Operating Non-Federal
790 Entity of an appropriate rate as determined by the applicable Project ratesetting policy, the RRA,

791 and the Project use power policy, if such Project use power policy is applicable, each as
792 amended, modified, or superseded from time to time.

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

799 (3) Neither the United States nor the Operating Non-Federal Entity
800 shall be responsible for control, care, or distribution of the non-Project water before it is
801 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases
802 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and
803 their respective officers, agents, and employees, from any claim for damage to persons or
804 property, direct or indirect, resulting from the acts of the Contractor, its officers', employees',
805 agents', or assigns', act(s) in (i) extracting or diverting non-Project water from any source, or (ii)
806 diverting such non-Project water into Project facilities.

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

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

815 OPINIONS AND DETERMINATIONS

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

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

831 COORDINATION AND COOPERATION

832 19. (a) In order to further their mutual goals and objectives, the Contracting
833 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
834 with other affected Project Contractors, in order to improve the operation and management of the
835 Project. The communication, coordination, and cooperation regarding operations and
836 management shall include, but not be limited to, any action which will or may materially affect
837 the quantity or quality of Project Water supply, the allocation of Project Water supply, and
838 Project financial matters including, but not limited to, budget issues. The communication,
839 coordination, and cooperation provided for hereunder shall extend to all provisions of this

840 Contract. Each party shall retain exclusive decision making authority for all actions, opinions,
841 and determinations to be made by the respective party.

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

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

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

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

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

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

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

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

871 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

889 EQUAL OPPORTUNITY

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

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

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

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

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

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

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

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

935 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

948 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

949 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
950 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
951 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
952 laws, as well as with their respective implementing regulations and guidelines imposed by the
953 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

968 PRIVACY ACT COMPLIANCE

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

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

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

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

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

994 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

995 25. In addition to all other payments to be made by the Contractor pursuant to this
 996 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
 997 detailed statement submitted by the Contracting Officer to the Contractor for such specific items
 998 of direct cost incurred by the United States for work requested by the Contractor associated with
 999 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies
 1000 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed
 1001 to in writing in advance by the Contractor. This Article shall not apply to costs for routine
 1002 contract administration.

1003 WATER CONSERVATION

1004 26. (a) Prior to the delivery of water provided from or conveyed through
 1005 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
 1006 shall be implementing an effective water conservation and efficiency program based on the
 1007 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
 1008 the conservation and efficiency criteria for evaluating water conservation plans established under
 1009 Federal law. The water conservation and efficiency program shall contain definite water

1010 conservation objectives, appropriate economically feasible water conservation measures, and
1011 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
1012 Contract shall be contingent upon the Contractor's continued implementation of such water
1013 conservation program. In the event the Contractor's water conservation plan or any revised water
1014 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not
1015 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
1016 the Contracting Officer determines are beyond the control of the Contractor, water deliveries
1017 shall be made under this Contract so long as the Contractor diligently works with the Contracting
1018 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
1019 immediately begins implementing its water conservation and efficiency program in accordance
1020 with the time schedules therein.

1021 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1022 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall
1023 implement the Best Management Practices identified by the time frames issued by the California
1024 Urban Water Conservation Council for such M&I Water unless any such practice is determined
1025 by the Contracting Officer to be inappropriate for the Contractor.

1026 (c) The Contractor shall submit to the Contracting Officer a report on the
1027 status of its implementation of the water conservation plan on the reporting dates specified in the
1028 then existing conservation and efficiency criteria established under Federal law.

1029 (d) At five-year intervals, the Contractor shall revise its water conservation
1030 plan to reflect the then-current conservation and efficiency criteria for evaluating water
1031 conservation plans established under Federal law and submit such revised water management
1032 plan to the Contracting Officer for review and evaluation. The Contracting Officer will then
1033 determine if the water conservation plan meets Reclamation's then-current conservation and
1034 efficiency criteria for evaluating water conservation plans established under Federal law.

1035 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1036 shall be described in the Contractor's water conservation plan.

1037 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1038 27. Except as specifically provided in Article 17 of this Contract, the provisions of
1039 this Contract shall not be applicable to or affect non-Project water or water rights now owned or
1040 hereafter acquired by the Contractor or any user of such water within the Contractor's
1041 Boundaries. Any such water shall not be considered Project Water under this Contract. In
1042 addition, this Contract shall not be construed as limiting or curtailing any rights which the
1043 Contractor or any water user within the Contractor's Boundaries acquires or has available under
1044 any other contract pursuant to Federal Reclamation law.

1045 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1046 28. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1047 and responsibility for funding a portion of the costs of such O&M, have been transferred to the
1048 Operating Non-Federal Entity by separate agreement between the United States and the
1049 Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the
1050 rights or obligations of the Contractor or the United States hereunder.

1051 (b) The Contracting Officer has previously notified the Contractor in writing
1052 that the O&M of a portion of the Project facilities which serve the Contractor has been
1053 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly
1054 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer
1055 under the terms and conditions of the separate agreement between the United States and the
1056 Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges, or
1057 assessments of any kind, including any assessment for reserve funds, which the Operating Non-
1058 Federal Entity or such successor determines, sets, or establishes for the O&M of the portion of
1059 the Project facilities operated and maintained by the Operating Non-Federal Entity or such
1060 successor. Such direct payments to the Operating Non-Federal Entity or such successor shall not

1061 relieve the Contractor of its obligation to pay directly to the United States the Contractor's share
1062 of the Project Rates, Charges, and Tiered Pricing Component(s) except to the extent the
1063 Operating Non-Federal Entity collects payments on behalf of the United States in accordance
1064 with the separate agreement identified in subdivision (a) of this Article.

1065 (c) For so long as the O&M of any portion of the Project facilities serving the
1066 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1067 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1068 Contract representing the cost associated with the activity being performed by the Operating
1069 Non-Federal Entity or its successor.

1070 (d) In the event the O&M of the Project facilities operated and maintained by
1071 the Operating Non-Federal Entity is reassumed by the United States during the term of this
1072 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the
1073 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1074 Contractor for Project Water under this Contract representing the O&M costs of the portion of
1075 such Project facilities which have been reassumed. The Contractor shall, thereafter, in the
1076 absence of written notification from the Contracting Officer to the contrary, pay the Rates,
1077 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the
1078 United States in compliance with Article 7 of this Contract.

1079 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1080 29. The expenditure or advance of any money or the performance of any obligation of
1081 the United States under this Contract shall be contingent upon appropriation or allotment of
1082 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1083 obligations under this Contract. No liability shall accrue to the United States in case funds are
1084 not appropriated or allotted.

1085 BOOKS, RECORDS, AND REPORTS

1086 30. (a) The Contractor shall establish and maintain accounts and other books and
1087 records pertaining to administration of the terms and conditions of this Contract, including: the
1088 Contractor's financial transactions, water supply data, and Project land and right-of-way
1089 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use

1090 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1091 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1092 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1093 Contract shall have the right during office hours to examine and make copies of the other party's
1094 books and records relating to matters covered by this Contract.

1095 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1096 books, records, or other information shall be requested from the Contractor by the Contracting
1097 Officer unless such books, records, or information are reasonably related to the administration or
1098 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1099 time within which to provide the requested books, records, or information.

1100 (c) At such time as the Contractor provides information to the Contracting
1101 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided
1102 to the Operating Non-Federal Entity.

1103 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1104 31. (a) The provisions of this Contract shall apply to and bind the successors and
1105 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1106 therein shall be valid until approved in writing by the Contracting Officer.

1107 (b) The assignment of any right or interest in this Contract by either party
1108 shall not interfere with the rights or obligations of the other party to this Contract absent the
1109 written concurrence of said other party.

1110 (c) The Contracting Officer shall not unreasonably condition or withhold his
1111 approval of any proposed assignment.

1112 SEVERABILITY

1113 32. In the event that a person or entity who is neither (i) a party to a Project contract,
1114 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
1115 an association or other form of organization whose primary function is to represent parties to
1116 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1117 enforceability of a provision included in this Contract and said person, entity, association, or
1118 organization obtains a final court decision holding that such provision is legally invalid or

1119 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1120 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
1121 final court decision identify by mutual agreement the provisions in this Contract which must be
1122 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).
1123 The time periods specified above may be extended by mutual agreement of the parties. Pending
1124 the completion of the actions designated above, to the extent it can do so without violating any
1125 applicable provisions of law, the United States shall continue to make the quantities of Project
1126 Water specified in this Contract available to the Contractor pursuant to the provisions of this
1127 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1128 RESOLUTION OF DISPUTES

1129 33. Should any dispute arise concerning any provisions of this Contract, or the
1130 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1131 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1132 Officer referring any matter to Department of Justice, the party shall provide to the other party
1133 30 days' written notice of the intent to take such action; Provided, That such notice shall not be
1134 required where a delay in commencing an action would prejudice the interests of the party that
1135 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer
1136 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,
1137 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
1138 United States may have.

1139 OFFICIALS NOT TO BENEFIT

1140 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1141 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1142 manner as other water users or landowners.

1143 CHANGES IN CONTRACTOR'S BOUNDARIES

1144 35. (a) While this Contract is in effect, no change may be made in the
1145 Contractor's Boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger,
1146 or otherwise, except upon the Contracting Officer's written consent.

1147 (b) Within 30 days of receipt of a request for such a change, the Contracting
1148 Officer will notify the Contractor of any additional information required by the Contracting
1149 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1150 schedule for timely completion of the process. Such process will analyze whether the proposed
1151 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1152 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1153 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1154 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1155 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be
1156 responsible for all costs incurred by the Contracting Officer in this process, and such costs will
1157 be paid in accordance with Article 25 of this Contract.

1158 FEDERAL LAWS

1159 36. By entering into this Contract, the Contractor does not waive its rights to contest
1160 the validity or application in connection with the performance of the terms and conditions of this
1161 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1162 the terms and conditions of this Contract unless and until relief from application of such Federal
1163 law or regulation to the implementing provision of the Contract is granted by a court of
1164 competent jurisdiction.

1165 NOTICES

1166 37. Any notice, demand, or request authorized or required by this Contract shall be
1167 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1168 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349
1169 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when
1170 mailed, postage prepaid, or delivered to the Board of Directors of the Dunnigan Water District,
1171 P. O. Box 84, 3817 First Street, Dunnigan, California 95937. The designation of the addressee
1172 or the address may be changed by notice given in the same manner as provided in this Article for
1173 other notices.

1174

CONFIRMATION OF CONTRACT

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1177
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38. The Contractor, after the execution of this Contract, shall promptly seek to secure a decree of a court of competent jurisdiction of the State of California, confirming the execution of this Contract. The Contractor shall furnish the United States a certified copy of the final decree, the validation proceedings, and all pertinent supporting records of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

1181
1182

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

1183

THE UNITED STATES OF AMERICA

1184
1185
1186

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY
James E. [Signature]
OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

By: *[Signature]*
Regional Director, Mid-Pacific Region
Bureau of Reclamation

1187 (SEAL)

1188

DUNNIGAN WATER DISTRICT

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1190

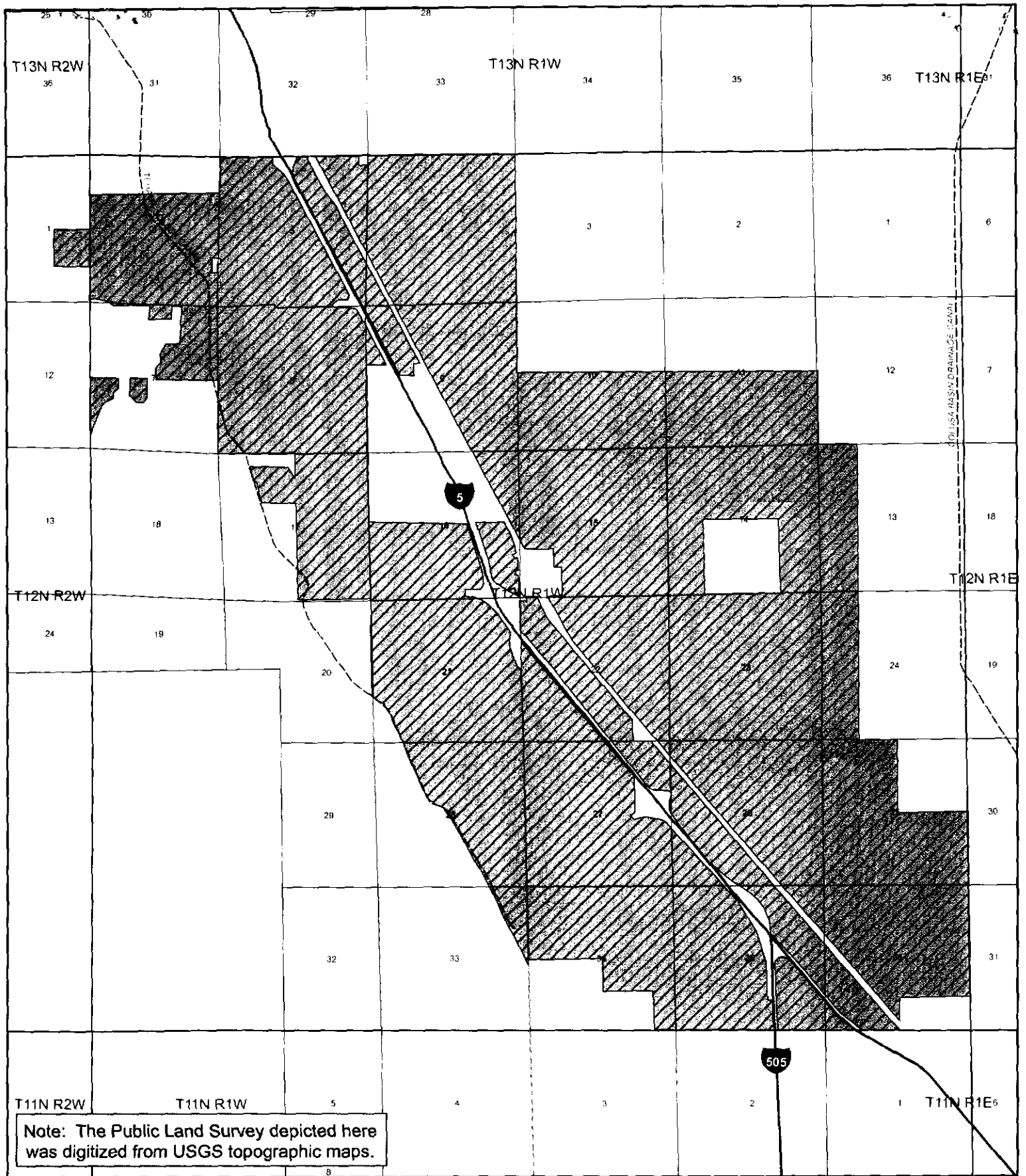
By: *[Signature]*
President of the Board of Directors

1191 Attest:

1192
1193



By: *Donita Hendrix*
Secretary of the Board of Directors

1194 (H:\public\Willows Final LTRC's\2005-01-31 Dunnigan WD Final LTRC Draft Contract.doc)



Dunnigan Water District

Contract No. 14-06-200-399-A-LTR1
Exhibit A

-  Contractor's Service Area
-  District Boundary

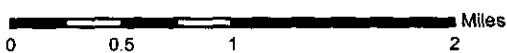


EXHIBIT B

DUNNIGAN WATER DISTRICT
2005 Water Rates and Charges per Acre-Foot

	<u>Cost of Service</u>		Calculated
	<u>Irrigation</u>	<u>M&I</u>	Payment Capacity 1/ <u>Irrigation</u>
<u>COST OF SERVICE RATES:</u>			
Capital Rates	\$ 9.52	\$27.70	\$ 0.00
O&M Rates:			
Water Marketing	6.61	3.89	6.61
Storage	5.93	6.67	5.93
Direct Pumping	0.12	0.12	0.12
Deficit Rates:			
Interest Bearing	0.51	0.00	0.51
CFO/PRF Adjustment Rate 2/	<u>1.18</u>	<u>0.00</u>	<u>1.18</u>
TOTAL	<u>\$23.87</u>	<u>\$38.38</u>	<u>\$14.35</u>
<u>FULL-COST RATES:</u>			
<u>Section 202(3)</u> Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	<u>\$92.44</u>		<u>\$92.44</u>
<u>Section 205(a)(3)</u> Rate is applicable to a Limited Recipient that did <u>not</u> receive irrigation water on or before October 1, 1981.	<u>\$96.65</u>		<u>\$96.65</u>
<u>M&I FULL COST RATE:</u>		<u>\$55.28</u>	
<u>TIERED PRICING COMPONENTS:</u>			
Tiered Pricing Component >80% <=90% of Contract			
Total [Full Cost Rate – COS Rate / 2]	<u>\$ 9.37</u>	<u>\$ 8.45</u>	<u>\$14.13</u>
Tiered Pricing Component >90% of Contract			
Total [Full Cost Rate – COS Rate]	<u>\$18.74</u>	<u>\$16.90</u>	<u>\$28.26</u>
<u>CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 3/</u>			
Restoration Payments (3407(d)(2)(A))	<u>\$ 7.93</u>	<u>\$15.87</u>	<u>\$ 0.00</u>

1/ Established pursuant to the results of the Payment Capacity Analysis for the Tehama-Colusa Water Users Association Service Area as announced by letter dated February 10, 1995.

2/ 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.

3/ 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).

BOARD OF DIRECTORS
DUNNIGAN WATER DISTRICT

RESOLUTION NO. 2004-05

RESOLUTION APPROVING LONG-TERM RENEWAL CONTRACT
FOR WATER SERVICE BETWEEN THE UNITED STATES AND
DUNNIGAN WATER DISTRICT AND APPROVING NOTICE OF
EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL
QUALITY ACT

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

1. On February 5, 1960, Dunnigan Water District ("District") and the United States of America entered into a contract providing for water service, designated Contract No. 14-06-200-399-A-LTR1 ("Original Contract").
2. Water service under the Original Contract began in April 1983, and has continued uninterrupted since then.
3. The Original Contract expired on February 28, 1995.
4. In advance of the expiration of the Original Contract, the District and the United States negotiated an Interim Renewal Contract ("IRC"), in accordance with the Central Valley Project Improvement Act, pending completion of a Programmatic Environmental Impact Statement (PEIS").
5. Upon completion of the PEIS, the United States announced its intent to negotiate a long-term renewal of the Original Contract.
6. The District and the United States engaged in a series of negotiations commencing in 1999 and completed on April 28, 2004. A copy of the proposed Long-term Renewal Contract,

designated Contract No. 14-06-200-300-A-LTR1 is attached hereto and incorporated herein by this reference as Exhibit "A".

7. The form of Long-Term Renewal Contract attached hereto reflects the results of the negotiations and contains the terms and conditions that the District and the United States have tentatively agreed upon.
8. Prior to execution of the Long-Term Renewal Contract, the United States must publish the proposed contract for 60-day public review, complete analysis of renewal of the contract under the Environmental Policy Act and complete consultations with other federal agencies under the federal Endangered Species Act.
9. The parties intend that the Long-Term Renewal Contract will be ready for execution no later than March 1, 2005, and will be effective as of that date.
10. Prior to execution of the Long-Term Renewal Contract, the District must analyze the action under the California Environmental Quality Act ("CEQA"). The District has previously analyzed its interim renewals of the Original Contract under CEQA, and has found them to be exempt. The District believes that its execution of the Long-Term Renewal Contract is similarly exempt, for the reason set forth in the Notice of Exemption attached hereto and incorporated herein by this reference as Exhibit "B".

NOW, THEREFORE, be it RESOLVED, ADJUDGED and ORDAINED that:

1. DUNNIGAN WATER DISTRICT approves the *Long-Term Renewal Contract Between the United States and Dunnigan Water District Providing for Project Water Service from the*

Sacramento River Division, Contract No. 14-06-200-300-A-LTR1.

2. Once the 60-day public review period and the United States' environmental review and ESA consultations are completed, if the United States presents the District with a Long-Term Renewal Contract that is in substantially the same form as that attached hereto as Exhibit A, then the District's officers are authorized to execute that Long-Term Renewal Contract, without further action of this Board.
3. The Secretary shall prepare and file a Notice of Exemption under CEQA in the form attached hereto as Exhibit B with the Yolo County Clerk as soon as possible. In accordance with this finding of exemption, no fee is due under California Fish and Game Code Section 711.4
4. The District's officers, staff and consultants are authorized and directed to do all things necessary and appropriate to carry out this Resolution and to ensure continued and uninterrupted water service to the District under its water service contract.

PASSED AND ADOPTED at a regular meeting on May 19,
2004

Of the Board of Directors by the following vote:

AYES: Cotter, Mumma, Schaad, McAravy, Doherty

NOES:

ABSENT: None



President

ATTEST:

Donita Hendrix

Secretary

CERTIFICATION

I Donita Hendrix, the duly and regularly appointed Secretary of the DUNNIGAN WATER DISTRICT, hereby certify that the foregoing is a true, correct and exact copy of a Resolution of the Board of Directors of DUNNIGAN WATER DISTRICT, duly and regularly passed and adopted at a meeting of the said Board of Directors at Dunnigan, California on May 19, 2004, the original of which is on file in my office and duly and regularly entered in the official records of proceedings of the Board of Directors of DUNNIGAN WATER DISTRICT.

Date: February 18, 2005

Donita Hendrix
Secretary