

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

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

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Exhibit A - Map of Contractor's Boundaries

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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 LA GRANDE WATER DISTRICT  
8 PROVIDING FOR PROJECT WATER SERVICE  
9 FROM THE SACRAMENTO RIVER DIVISION

10 THIS CONTRACT, made this 25<sup>th</sup> 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 LA GRANDE WATER  
18 DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly  
19 organized, existing, and acting pursuant to the laws thereof;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1<sup>st</sup>] 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 [2<sup>nd</sup>] 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 [3<sup>rd</sup>] WHEREAS, the rights to Project Water were acquired by the United States  
33 pursuant to California law for operation of the Project; and

34 [4<sup>th</sup>] WHEREAS, the Contractor and the United States entered into Contract  
35 No. 7-07-20-W0022, which established terms for the delivery to the Contractor of Project Water  
36 from the Canal Facilities from June 6, 1977, through February 28, 1995, and under which the  
37 initial date of water delivery to the Contractor was January 1, 1981; and

38 [5<sup>th</sup>] 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). 7-07-20-W0022-IR1, 7-07-20-W0022-  
41 IR2, 7-07-20-W0022-IR3, 7-07-20-W0022-IR4, 7-07-20-W0022-IR5, 7-07-20-W0022-IR6,  
42 7-07-20-W0022-IR7, and 7-07-20-W0022-IR8, the current of which is hereinafter referred to as  
43 the Existing Contract, which provided for the continued water service to the Contractor from  
44 March 1, 2004, through February 28, 2006; and

45 [6<sup>th</sup>] 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 [7<sup>th</sup>] 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 [8<sup>th</sup>] 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 [9<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all  
56 of its obligations under the Existing Contract; and

57 [10<sup>th</sup>] 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 [11<sup>th</sup>] 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 [12<sup>th</sup>] 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 [13<sup>th</sup>] 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 [14<sup>th</sup>] 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 [15<sup>th</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative  
78 relationship in order to achieve their mutual goals; and

79 [16<sup>th</sup>] 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;

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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TERM OF CONTRACT

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

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

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

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

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

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

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

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

252 subdivision (b) of this Article a provision that carries forth in substantially identical terms the  
253 provisions of this subdivision.

254 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

255 3. (a) During each Year, consistent with all applicable State water rights,  
256 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of  
257 this Contract, the Contracting Officer shall make available for delivery to the Contractor 5,000  
258 acre-feet of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in  
259 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of  
260 Articles 4 and 7 of this Contract.

261 (b) Because the capacity of the Project to deliver Project Water has been  
262 constrained in recent years and may be constrained in the future due to many factors including  
263 hydrologic conditions and implementation of Federal and State laws, the likelihood of the  
264 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this  
265 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the  
266 PEIS projected that the Contract Total set forth in this Contract will not be available to the  
267 Contractor in many years. During the most recent five years, the Recent Historic Average of  
268 water made available to the Contractor was 4,600 acre-feet. Nothing in subdivision (b) of this  
269 Article shall affect the rights and obligations of the parties under any provision of this Contract.

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

272 (d) The Contractor shall make reasonable and beneficial use of all water  
273 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu),  
274 groundwater banking programs, surface water storage programs, and other similar programs  
275 utilizing Project Water or other water furnished pursuant to this Contract conducted within the  
276 Contractor's Boundaries which are consistent with applicable State law and result in use  
277 consistent with Federal Reclamation law will be allowed; Provided, That any direct recharge

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

288 (e) The Contractor shall comply with requirements applicable to the  
289 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution  
290 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),  
291 as amended, that are within the Contractor's legal authority to implement. The Existing  
292 Contract, which evidences in excess of 22 years of diversions for irrigation and/or M&I purposes  
293 of the quantities of water provided in subdivision (a) of Article 3 of this Contract, will be  
294 considered in developing an appropriate baseline for biological assessment(s) prepared pursuant  
295 to the ESA, and any other needed environmental review. Nothing herein shall be construed to  
296 prevent the Contractor from challenging or seeking judicial relief in a court of competent  
297 jurisdiction with respect to any biological opinion or other environmental documentation referred  
298 to in this Article.

299 (f) As soon as possible following each declaration of Water Made Available  
300 under Article 4 of this Contract, the Contracting Officer will make a determination whether  
301 Project Water, or other water available to the Project, can be made available to the Contractor in  
302 addition to the Contract Total under Article 3 of this Contract during the Year without adversely  
303 impacting other Project Contractors. At the request of the Contractor, the Contracting Officer

304 will consult with the Contractor prior to making such a determination. If the Contracting Officer  
305 determines that Project Water, or other water available to the Project, can be made available to  
306 the Contractor, the Contracting Officer will announce the availability of such water and shall so  
307 notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the  
308 Contractor and other Project Contractors capable of taking such water to determine the most  
309 equitable and efficient allocation of such water. If the Contractor requests the delivery of any  
310 quantity of such water, the Contracting Officer shall make such water available to the Contractor  
311 in accordance with applicable statutes, regulations, guidelines, and policies.

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

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

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

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

338 TIME FOR DELIVERY OF WATER

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

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

354 (c) The Contractor shall not schedule Project Water in excess of the quantity  
355 of Project Water the Contractor intends to put to reasonable and beneficial use within the



356 Contractor's Boundaries or to sell, transfer, or exchange pursuant to Article 9 of this Contract  
357 during any Year.

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

363 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

364 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
365 Contract shall be delivered to the Contractor at approved turnouts on the Canal Facilities and any  
366 additional point or points of delivery either on Project facilities or another location or locations  
367 mutually agreed to in writing by the Contracting Officer and the Contractor. The United States  
368 shall furnish such power as may be necessary to pump Project Water at the existing Tehama-  
369 Colusa Canal side pumping plants and at existing relift stations at heads and elevations sufficient  
370 to irrigate by gravity all areas within the Contractor's Boundaries below elevation 300 (MSL).

371 (b) The Contracting Officer, either directly or through its written agreement(s)  
372 with the Operating Non-Federal Entity/Entities shall make all reasonable efforts to maintain  
373 sufficient flows and levels of water in the Project facilities to deliver Project Water to the  
374 Contractor at specific turnouts established pursuant to subdivision (a) of this Article. The parties  
375 acknowledge that it may be necessary from time to time to shut down some or all of Canal  
376 Facilities for maintenance or emergencies. Except in the case of emergency, the Contracting  
377 Officer shall consult with the Contractor to schedule the shutdown at such times and for such  
378 duration as will allow for the work to be accomplished completely and efficiently, and with a  
379 minimum of disruption of water service to the Contractor. In this regard, shutdowns will, to the  
380 extent reasonably possible, be limited to the months of December and January.

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

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

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

407 Non-Federal Entity/Entities, (iii) negligence of the Contracting Officer or any of its officers,  
408 employees, agents, or assigns including the Operating Non-Federal Entity/Entities, or (iv)  
409 damage or claims resulting from a malfunction of facilities owned and/or operated by the United  
410 States or responsible Operating Non-Federal Entity/Entities.

411 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S BOUNDARIES

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

428 (b) To the extent the information has not otherwise been provided, upon  
429 execution of this Contract, the Contractor shall provide to the Contracting Officer a written  
430 report describing the measurement devices or water measuring methods being used or to be used  
431 to implement subdivision (a) of this Article and identifying the agricultural turnouts and the M&I  
432 service connections or alternative measurement programs approved by the Contracting Officer,

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

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

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

450 (e) The Contractor shall inform the Contracting Officer and the Operating  
451 Non-Federal Entity on or before the 20<sup>th</sup> calendar day of each month of the quantity of Irrigation  
452 and M&I Water taken during the preceding month.

453 RATES AND METHOD OF PAYMENT FOR WATER

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

459 applicable Federal Reclamation law and associated rules and regulations, or policies; and (iii)  
460 other applicable provisions of this Contract. Payments shall be made by cash transaction,  
461 electronic funds transfer, or any other mechanism as may be agreed to in writing by the  
462 Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing Component  
463 applicable to the Contractor upon execution of this Contract are set forth in Exhibit "B," as may  
464 be revised annually.

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

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

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

482 (c) At the time the Contractor submits the initial schedule for the delivery of  
483 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the  
484 Contractor shall make an advance payment to the United States equal to the total amount payable

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

505 (d) The Contractor shall also make a payment in addition to the Rate(s) in  
506 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the  
507 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
508 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered  
509 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be  
510 consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the

511 water delivery report for the subject month prepared by the Operating Non-Federal  
512 Entity/Entities or, if there is no Operating Non-Federal Entity/Entities, by the Contracting  
513 Officer. The water delivery report shall be deemed a bill for the payment of Charges and the  
514 applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or  
515 underpayment of Charges shall be made through the adjustment of payments due to the United  
516 States for Charges for the next month. Any amount to be paid for past due payment of Charges  
517 and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

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

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

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

530 (h) The Contracting Officer shall keep its accounts pertaining to the  
531 administration of the financial terms and conditions of its long-term contracts, in accordance  
532 with applicable Federal standards, so as to reflect the application of Project costs and revenues.  
533 The Contracting Officer shall, each Year upon request of the Contractor, provide to the  
534 Contractor a detailed accounting of all Project and Contractor expense allocations, the  
535 disposition of all Project and Contractor revenues, and a summary of all water delivery

536 information. The Contracting Officer and the Contractor shall enter into good faith negotiations  
537 to resolve any discrepancies or disputes relating to accountings, reports, or information.

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

545 (j) (1) Beginning at such time as deliveries of Project Water in a Year  
546 exceed 80 percent of the Contract Total, then before the end of the month following the month of  
547 delivery the Contractor shall make an additional payment to the United States equal to the  
548 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water  
549 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the  
550 Contract Total, shall equal one-half of the difference between the Rate established under  
551 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water  
552 Rate, whichever is applicable. The Tiered Pricing Component for the amount of Water  
553 Delivered which exceeds 90 percent of the Contract Total shall equal the difference between (i)  
554 the Rate established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water  
555 Rate or M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to  
556 subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract  
557 Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in  
558 the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.

559 (2) Subject to the Contracting Officer's written approval, the  
560 Contractor may request and receive an exemption from such Tiered Pricing Components for  
561 Project Water delivered to produce a crop which the Contracting Officer determines will provide



562 significant and quantifiable habitat values for waterfowl in fields where the water is used and the  
563 crops are produced; Provided, That the exemption from the Tiered Pricing Component for  
564 Irrigation Water shall apply only if such habitat values can be assured consistent with the  
565 purposes of the CVPIA through binding agreements executed with or approved by the  
566 Contracting Officer prior to use of such water.

567 (3) For purposes of determining the applicability of the Tiered Pricing  
568 Components pursuant to this Article, Water Delivered shall include Project Water that the  
569 Contractor transfers to others but shall not include Project Water transferred to the Contractor,  
570 nor shall it include the additional water provided to the Contractor under the provisions of  
571 subdivision (f) of Article 3 of this Contract.

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

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

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

590 (n) With respect to the Rates for M&I Water, the Contractor asserts that it is  
591 not legally obligated to repay any Project deficits claimed by the United States to have accrued  
592 as of the date of this Contract or deficit-related interest charges thereon. By entering into this  
593 Contract, the Contractor does not waive any legal rights or remedies that it may have with  
594 respect to such disputed issues. Notwithstanding the execution of this Contract, and payments  
595 made hereunder, the Contractor may challenge in the appropriate administrative or judicial  
596 forums: (1) the existence, computation, or imposition of any deficit charges accruing during the  
597 term of the Existing Contract and any preceding interim renewal contract, if applicable; (2)  
598 interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in  
599 the Rates; (4) the application by the United States of payments made by the Contractor under its  
600 Existing Contract and any preceding interim renewal contract, if applicable; and (5) the  
601 application of such payments in the Rates. The Contracting Officer agrees that the Contractor  
602 shall be entitled to the benefit of any administrative or judicial ruling in favor of any Project  
603 M&I contractor on any of these issues, and credits for payments heretofore made, Provided, That  
604 the basis for such ruling is applicable to the Contractor.

605 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

609 SALES, TRANSFERS, OR EXCHANGES OF WATER

610 9. (a) The right to receive Project Water provided for in this Contract may be  
611 sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of  
612 California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,  
613 and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project

614 Water under this Contract may take place without the prior written approval of the Contracting  
615 Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or  
616 exchanges shall be approved absent all appropriate environmental documentation, including but  
617 not limited to documents prepared pursuant to NEPA and ESA. Such environmental  
618 documentation should include, as appropriate, an analysis of groundwater impacts and economic  
619 and social effects, including environmental justice, of the proposed water transfers on both the  
620 transferor and transferee.

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

635 (c) For a water transfer to qualify under subdivision (b) of this Article, such  
636 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three  
637 years, for M&I use, groundwater recharge, groundwater banking, similar groundwater activities,  
638 surface water storage, or fish and wildlife resources; not lead to land conversion; and be  
639 delivered to established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur

640 within a single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water  
641 through existing facilities with no new construction or modifications to facilities and be between  
642 existing Project Contractors and/or the Contractor and the United States, Department of the  
643 Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and  
644 requirements imposed for protection of the environment and Indian Trust Assets, as defined  
645 under Federal law.

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

#### 652 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

664 (b) All advances for miscellaneous costs incurred for work requested by the  
665 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs

666 when the work has been completed. If the advances exceed the actual costs incurred, the  
667 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's  
668 advances, the Contractor will be billed for the additional costs pursuant to Article 25.

669 TEMPORARY REDUCTIONS--RETURN FLOWS

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

675 (b) The Contracting Officer or Operating Non-Federal Entity/Entities may  
676 temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as herein  
677 provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any  
678 of the Project facilities or any part thereof necessary for the delivery of Project Water to the  
679 Contractor, but so far as feasible the Contracting Officer or Operating Non-Federal Entity will  
680 give the Contractor due notice in advance of such temporary discontinuance or reduction, except  
681 in case of emergency, in which case no notice need be given; Provided, That the United States  
682 shall use its best efforts to avoid any discontinuance or reduction in such service. Upon  
683 resumption of service after such reduction or discontinuance, and if requested by the Contractor,  
684 the United States will, if possible, deliver the quantity of Project Water which would have been  
685 delivered hereunder in the absence of such discontinuance or reduction.

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

692 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

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

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

712 UNAVOIDABLE GROUNDWATER PERCOLATION

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

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RULES AND REGULATIONS

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

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WATER AND AIR POLLUTION CONTROL

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

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QUALITY OF WATER

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

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

744 WATER ACQUIRED BY THE CONTRACTOR  
745 OTHER THAN FROM THE UNITED STATES

746 17. (a) Water or water rights now owned or hereafter acquired by the Contractor  
747 other than from the United States and Irrigation Water furnished pursuant to the terms of this  
748 Contract may be simultaneously transported through the same distribution facilities of the  
749 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water  
750 and non-Project water were constructed without funds made available pursuant to Federal  
751 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the  
752 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive  
753 Irrigation Water must be established through the certification requirements as specified in the  
754 Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of  
755 Eligible Lands within the Contractor's Boundaries can be established and the quantity of  
756 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such  
757 Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-  
758 Project water are/were constructed with funds made available pursuant to Federal Reclamation  
759 law, the non-Project water will be subject to the acreage limitation provisions of Federal  
760 Reclamation law, unless the Contractor pays to the United States the incremental fee described in  
761 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will calculate  
762 annually the cost to the Federal Government, including interest, on storing or delivering non-  
763 Project water, which for purposes of this Contract shall be determined as follows: The quotient  
764 shall be the unpaid distribution system costs divided by the total irrigable acreage within the  
765 Contractor's Boundaries. The incremental fee per acre is the mathematical result of such  
766 quotient times the interest rate determined using Section 202 (3) of the Act of October 12, 1982  
767 (96 Stat. 1263). Such incremental fee will be charged to each acre of excess or full cost land  
768 within the Contractor's Boundaries that receives non-Project water through Federally financed or  
769 constructed facilities. The incremental fee calculation methodology will continue during the  
770 term of this Contract absent the promulgation of a contrary Reclamation-wide rule, regulation, or



771 policy adopted after the Contractor has been afforded the opportunity to review and comment on  
772 the proposed rule, regulation, or policy. If such rule, regulation, or policy is adopted it shall  
773 supersede this provision.

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

779 (1) The Contractor may introduce non-Project water into Project  
780 facilities and deliver said water to lands within the Contractor's Boundaries, including Ineligible  
781 Lands, subject to payment to the United States and/or to any applicable Operating Non-Federal  
782 Entity of an appropriate rate as determined by the applicable Project ratesetting policy, the RRA,  
783 and the Project use power policy, if such Project use power policy is applicable, each as  
784 amended, modified, or superseded from time to time.

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

791 (3) Neither the United States nor the Operating Non-Federal Entity  
792 shall be responsible for control, care, or distribution of the non-Project water before it is  
793 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases  
794 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and  
795 their respective officers, agents, and employees, from any claim for damage to persons or  
796 property, direct or indirect, resulting from the acts of the Contractor, its officers', employees',

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

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

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

807 OPINIONS AND DETERMINATIONS

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

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

823 COORDINATION AND COOPERATION

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

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

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

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

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

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

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

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

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

863                                   CHARGES FOR DELINQUENT PAYMENTS

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

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

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

881 EQUAL OPPORTUNITY

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

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

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

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

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

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

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

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

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

927 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

940 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

941 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
942 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the  
943 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights  
944 laws, as well as with their respective implementing regulations and guidelines imposed by the  
945 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

960 PRIVACY ACT COMPLIANCE

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

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

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

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

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

986                    CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

995                    WATER CONSERVATION

996            26.     (a)     Prior to the delivery of water provided from or conveyed through  
997 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor  
998 shall be implementing an effective water conservation and efficiency program based on the  
999 Contractor's water conservation plan that has been determined by the Contracting Officer to meet  
1000 the conservation and efficiency criteria for evaluating water conservation plans established under  
1001 Federal law. The water conservation and efficiency program shall contain definite water  
1002 conservation objectives, appropriate economically feasible water conservation measures, and  
1003 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this  
1004 Contract shall be contingent upon the Contractor's continued implementation of such water  
1005 conservation program. In the event the Contractor's water conservation plan or any revised water  
1006 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not  
1007 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which  
1008 the Contracting Officer determines are beyond the control of the Contractor, water deliveries  
1009 shall be made under this Contract so long as the Contractor diligently works with the Contracting  
1010 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor



1011 immediately begins implementing its water conservation and efficiency program in accordance  
1012 with the time schedules therein.

1013 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of  
1014 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall  
1015 implement the Best Management Practices identified by the time frames issued by the California  
1016 Urban Water Conservation Council for such M&I Water unless any such practice is determined  
1017 by the Contracting Officer to be inappropriate for the Contractor.

1018 (c) The Contractor shall submit to the Contracting Officer a report on the  
1019 status of its implementation of the water conservation plan on the reporting dates specified in the  
1020 then existing conservation and efficiency criteria established under Federal law.

1021 (d) At five-year intervals, the Contractor shall revise its water conservation  
1022 plan to reflect the then current conservation and efficiency criteria for evaluating water  
1023 conservation plans established under Federal law and submit such revised water management  
1024 plan to the Contracting Officer for review and evaluation. The Contracting Officer will then  
1025 determine if the water conservation plan meets Reclamation's then current conservation and  
1026 efficiency criteria for evaluating water conservation plans established under Federal law.

1027 (e) If the Contractor is engaged in direct groundwater recharge, such activity  
1028 shall be described in the Contractor's water conservation plan.

1029 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1030 27. Except as specifically provided in Article 17 of this Contract, the provisions of  
1031 this Contract shall not be applicable to or affect non-Project water or water rights now owned or  
1032 hereafter acquired by the Contractor or any user of such water within the Contractor's  
1033 Boundaries. Any such water shall not be considered Project Water under this Contract. In  
1034 addition, this Contract shall not be construed as limiting or curtailing any rights which the

1035 Contractor or within the Contractor's Boundaries acquires or has available under any other  
1036 contract pursuant to Federal Reclamation law.

1037 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1038 28. (a) The O&M of a portion of the Project facilities which serve the Contractor,  
1039 and responsibility for funding a portion of the costs of such O&M, have been transferred to the  
1040 Operating Non-Federal Entity by separate agreement between the United States and the  
1041 Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the  
1042 rights or obligations of the Contractor or the United States hereunder.

1043 (b) The Contracting Officer has previously notified the Contractor in writing  
1044 that the O&M of a portion of the Project facilities which serve the Contractor has been  
1045 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly  
1046 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer  
1047 under the terms and conditions of the separate agreement between the United States and the  
1048 Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges, or  
1049 assessments of any kind, including any assessment for reserve funds, which the Operating Non-  
1050 Federal Entity or such successor determines, sets, or establishes for the O&M of the portion of  
1051 the Project facilities operated and maintained by the Operating Non-Federal Entity or such  
1052 successor. Such direct payments to the Operating Non-Federal Entity or such successor shall not  
1053 relieve the Contractor of its obligation to pay directly to the United States the Contractor's share  
1054 of the Project Rates, Charges, and Tiered Pricing Component(s) except to the extent the  
1055 Operating Non-Federal Entity collects payments on behalf of the United States in accordance  
1056 with the separate agreement identified in subdivision (a) of this Article.

1057 (c) For so long as the O&M of any portion of the Project facilities serving the  
1058 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the  
1059 Contracting Officer shall adjust those components of the Rates for Water Delivered under this

1060 Contract representing the cost associated with the activity being performed by the Operating  
1061 Non-Federal Entity or its successor.

1062 (d) In the event the O&M of the Project facilities operated and maintained by  
1063 the Operating Non-Federal Entity is reassumed by the United States during the term of this  
1064 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the  
1065 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the  
1066 Contractor for Project Water under this Contract representing the O&M costs of the portion of  
1067 such Project facilities which have been reassumed. The Contractor shall, thereafter, in the  
1068 absence of written notification from the Contracting Officer to the contrary, pay the Rates,  
1069 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the  
1070 United States in compliance with Article 7 of this Contract.

1071 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1072 29. The expenditure or advance of any money or the performance of any obligation of  
1073 the United States under this Contract shall be contingent upon appropriation or allotment of  
1074 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any  
1075 obligations under this Contract. No liability shall accrue to the United States in case funds are  
1076 not appropriated or allotted.

1077 BOOKS, RECORDS, AND REPORTS

1078 30. (a) The Contractor shall establish and maintain accounts and other books and  
1079 records pertaining to administration of the terms and conditions of this Contract, including: the  
1080 Contractor's financial transactions, water supply data, and Project land and right-of-way  
1081 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use  
1082 data; and other matters that the Contracting Officer may require. Reports thereon shall be  
1083 furnished to the Contracting Officer in such form and on such date or dates as the Contracting  
1084 Officer may require. Subject to applicable Federal laws and regulations, each party to this  
1085 Contract shall have the right during office hours to examine and make copies of the other party's  
1086 books and records relating to matters covered by this Contract.

1087 (b) Notwithstanding the provisions of subdivision (a) of this Article, no  
1088 books, records, or other information shall be requested from the Contractor by the Contracting  
1089 Officer unless such books, records, or information are reasonably related to the administration or

1090 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
1091 time within which to provide the requested books, records, or information.

1092 (c) At such time as the Contractor provides information to the Contracting  
1093 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided  
1094 to the Operating Non-Federal Entity.

1095 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1096 31. (a) The provisions of this Contract shall apply to and bind the successors and  
1097 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1098 therein shall be valid until approved in writing by the Contracting Officer.

1099 (b) The assignment of any right or interest in this Contract by either party  
1100 shall not interfere with the rights or obligations of the other party to this Contract absent the  
1101 written concurrence of said other party.

1102 (c) The Contracting Officer shall not unreasonably condition or withhold his  
1103 approval of any proposed assignment.

1104 SEVERABILITY

1105 32. In the event that a person or entity who is neither (i) a party to a Project contract,  
1106 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)  
1107 an association or other form of organization whose primary function is to represent parties to  
1108 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1109 enforceability of a provision included in this Contract and said person, entity, association, or  
1110 organization obtains a final court decision holding that such provision is legally invalid or  
1111 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),  
1112 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such  
1113 final court decision identify by mutual agreement the provisions in this Contract which must be  
1114 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).  
1115 The time periods specified above may be extended by mutual agreement of the parties. Pending  
1116 the completion of the actions designated above, to the extent it can do so without violating any

1117 applicable provisions of law, the United States shall continue to make the quantities of Project  
1118 Water specified in this Contract available to the Contractor pursuant to the provisions of this  
1119 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1120 RESOLUTION OF DISPUTES

1121 33. Should any dispute arise concerning any provisions of this Contract, or the  
1122 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to  
1123 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting  
1124 Officer referring any matter to Department of Justice, the party shall provide to the other party  
1125 30 days' written notice of the intent to take such action; Provided, That such notice shall not be  
1126 required where a delay in commencing an action would prejudice the interests of the party that  
1127 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer  
1128 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,  
1129 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the  
1130 United States may have.

1131 OFFICIALS NOT TO BENEFIT

1132 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1133 Contractor shall benefit from this Contract other than as a water user or landowner in the same  
1134 manner as other water users or landowners.

1135 CHANGES IN CONTRACTOR'S BOUNDARIES

1136 35. (a) While this Contract is in effect, no change may be made in the  
1137 Contractor's Boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger,  
1138 or otherwise, except upon the Contracting Officer's written consent.

1139 (b) Within 30 days of receipt of a request for such a change, the Contracting  
1140 Officer will notify the Contractor of any additional information required by the Contracting  
1141 Officer for processing said request, and both parties will meet to establish a mutually agreeable  
1142 schedule for timely completion of the process. Such process will analyze whether the proposed  
1143 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;  
1144 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or

1145 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)  
1146 have an impact on any Project Water rights applications, permits, or licenses. In addition, the  
1147 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be  
1148 responsible for all costs incurred by the Contracting Officer in this process, and such costs will  
1149 be paid in accordance with Article 25 of this Contract.

1150 FEDERAL LAWS

1151 36. By entering into this Contract, the Contractor does not waive its rights to contest  
1152 the validity or application in connection with the performance of the terms and conditions of this  
1153 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with  
1154 the terms and conditions of this Contract unless and until relief from application of such Federal  
1155 law or regulation to the implementing provision of the Contract is granted by a court of  
1156 competent jurisdiction.

1157 NOTICES

1158 37. Any notice, demand, or request authorized or required by this Contract shall be  
1159 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
1160 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349  
1161 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when  
1162 mailed, postage prepaid, or delivered to the Board of Directors of the La Grande Water District,  
1163 P. O. Box 756, 2005 Husted Road, Williams, California 95987. The designation of the  
1164 addressee or the address may be changed by notice given in the same manner as provided in this  
1165 Article for other notices.

1166 CONFIRMATION OF CONTRACT

1167 38. The Contractor, after the execution of this Contract, shall promptly seek to secure  
1168 a decree of a court of competent jurisdiction of the State of California, confirming the execution  
1169 of this Contract. The Contractor shall furnish the United States a certified copy of the final  
1170 decree, the validation proceedings, and all pertinent supporting records of the court approving  
1171 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on  
1172 the Contractor.

1173 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of  
1174 the day and year first above written.

1175 THE UNITED STATES OF AMERICA

1176 APPROVED AS TO LEGAL  
1177 FORM AND SUFFICIENCY  
1178 *James E. Turner*  
OFFICE OF REGIONAL SOLICITOR  
DEPARTMENT OF THE INTERIOR

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

1179 (SEAL)

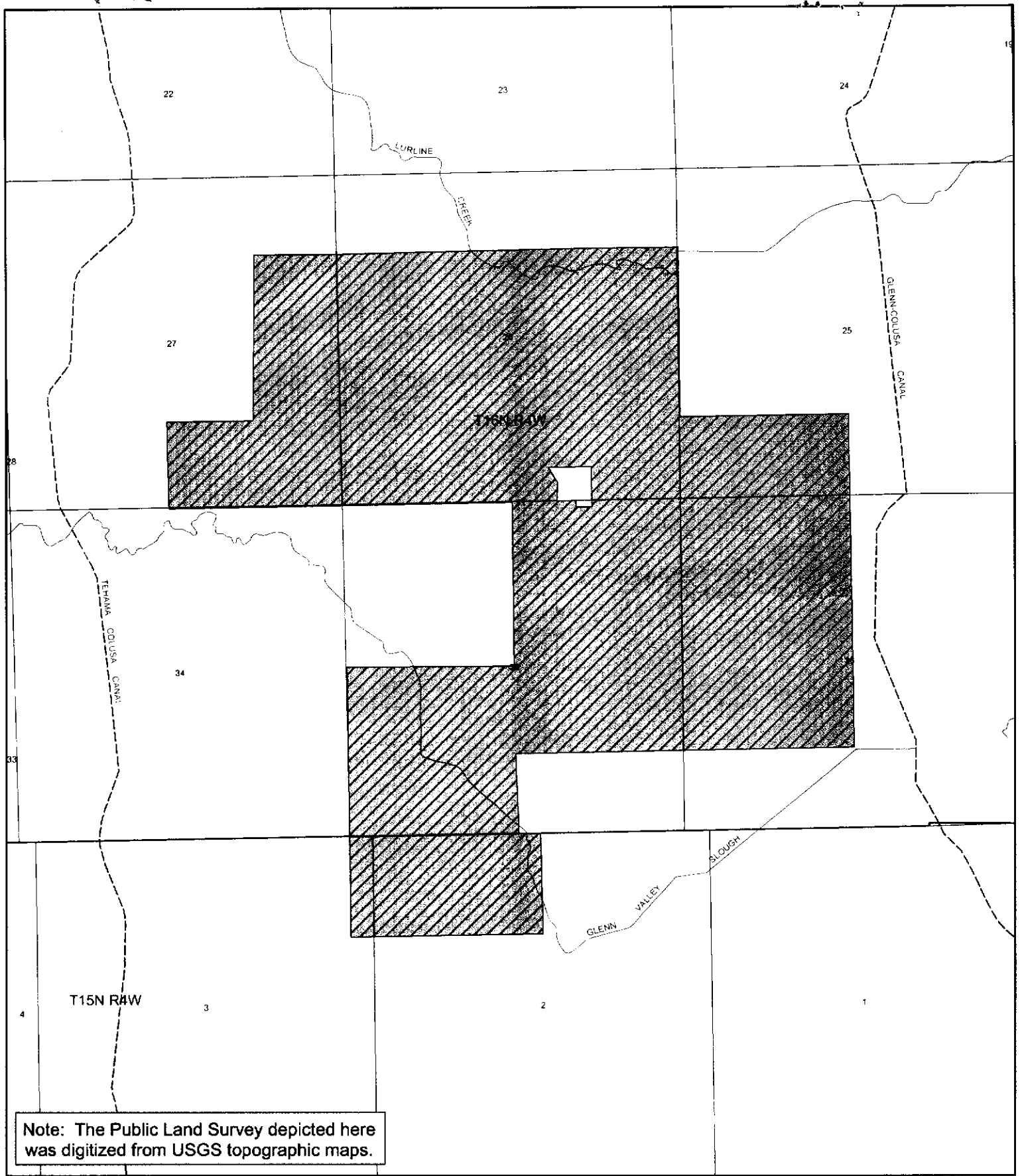
1180 LA GRANDE WATER DISTRICT

1181 By: *Ronald M. La Grande*  
1182 President of the Board of Directors

1183 Attest:



1184 By: *[Signature]*  
1185 Secretary of the Board of Directors

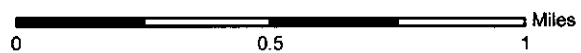
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# La Grande Water District

Contract No. 7-07-20-W0022-LTR1  
Exhibit A

-  Contractor's Service Area
-  District Boundary





## EXHIBIT B

**LA GRANDE WATER DISTRICT**  
2005 Water Rates and Charges per Acre-Foot

	<u>Cost of Service</u>		<u>Calculated</u>
	<u>Irrigation</u>	<u>M&amp;I</u>	<u>Payment Capacity 1/ Irrigation</u>
<u>COST OF SERVICE RATES:</u>			
Capital Rates	\$ 7.17	2/	\$ 0.00
O&M Rates:			
Water Marketing	6.61		6.61
Storage	5.93		5.93
Deficit Rates:			
Interest Bearing	1.42		1.42
CFO/PFR Adjustment Rate 3/	<u>1.35</u>		<u>1.35</u>
TOTAL	<u>\$22.48</u>	2/	<u>\$15.31</u>
<u>FULL-COST RATES:</u>			
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	<u>\$34.74</u>		<u>\$34.74</u>
Section 205(a)(3) Rate is applicable to a Limited Recipient that did <u>not</u> receive irrigation water on or before October 1, 1981.	<u>\$41.93</u>		<u>\$41.93</u>
<u>TIERED PRICING COMPONENTS:</u>			
Tiered Pricing Component >80% <=90% of Contract			
Total [Full Cost Rate – COS Rate / 2]	<u>\$ 6.13</u>	2/	<u>\$ 9.72</u>
Tiered Pricing Component >90% of Contract			
Total [Full Cost Rate – COS Rate]	<u>\$12.26</u>	2/	<u>\$19.43</u>
<u>CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 4/</u>			
Restoration Payments (3407(d)(2)(A))	<u>\$ 7.93</u>	2/	<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/ To be provided as needed. Contractor does not currently receive M&I water and is not projected to take any in the near future.

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

4/ 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).

1 BOARD OF DIRECTORS

2 LAGRANDE WATER DISTRICT  
3 RESOLUTION NO. 04-

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

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

10 1. On June 6, 1977, LaGrande Water District ("District") and the United States of  
11 America entered into a contract providing for water service, designated Contract No. 7-07-20-  
12 W0022 ("Original Contract").

13 2. Water service under the Original Contract began in 1981, and has continued  
14 uninterrupted since then.

15 3. The Original Contract expired on February 28, 1995.

16 4. In advance of the expiration of the Original Contract, the District and the United States  
17 negotiated an Interim Renewal Contract ("IRC"), in accordance with the Central Valley Project  
18 Improvement Act, pending completion of a Programmatic Environmental Impact Statement  
19 ("PEIS").

20 5. Upon completion of the PEIS, the United States announced its intent to negotiate a  
21 long-term renewal of the Original Contract.

22 6. The District and the United States engaged in a series of negotiations commencing  
23 in 1999 and completed on April 28, 2004. A copy of the proposed Long-Term Renewal Contract,  
24 designated Contract No. 7-07-20-W0022-LTR1 is attached hereto and incorporated herein by this  
25 reference as Exhibit "A".

26 7. The form of Long-Term Renewal Contract attached hereto reflects the results of the  
27 negotiations and contains the terms and conditions that the District and the United States have  
28 tentatively agreed upon.

J. MARK ATLAS  
FROST, KRUP AND ATLAS  
134 WEST SYCAMORE STREET WILLOWS, CALIFORNIA 95988  
TELEPHONE (530) 934-5416 FACSIMILE (530) 934-3508  
E-MAIL JMAG@JMATLASLAW.COM

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1 8. Prior to execution of the Long-Term Renewal Contract, the United States must publish  
2 the proposed contract for a 60-day public review, complete analysis of renewal of the contract under  
3 the National Environmental Policy Act and complete consultations with other federal agencies under  
4 the federal Endangered Species Act.

5 9. The parties intend that the Long-Term Renewal Contract will be ready for execution  
6 no later than March 1, 2005, and will be effective as of that date.

7 10. Prior to execution of the Long-Term Renewal Contract, the District must analyze the  
8 action under the California Environmental Quality Act ("CEQA"). The District has previously  
9 analyzed its interim renewals of the Original Contract under CEQA, and has found them to be  
10 exempt. The District believes that its execution of the Long-Term Renewal Contract is similarly  
11 exempt, for the reasons set forth in the Notice of Exemption attached hereto and incorporated herein  
12 by this reference as Exhibit "B".

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

14 1. LAGRANDE WATER DISTRICT approves the *Long-Term Renewal Contract*  
15 *Between the United States and LaGrande Water District Providing for Project Water Service*  
16 *from the Sacramento River Division, Contract No. 7-07-20-W0022-LTR1.*

17 2. Once the 60-day public review period and the United States' environmental review and  
18 ESA consultations are completed, if the United States presents the District with a Long-Term  
19 Renewal Contract that is in substantially the same form as that attached hereto as Exhibit A, then  
20 the District's officers are authorized to execute that Long-Term Renewal Contract, without further  
21 action of this Board.

22 3. The Secretary shall prepare and file a Notice of Exemption under CEQA in the form  
23 attached hereto as Exhibit B with the Colusa County Clerk as soon as possible. In accordance with  
24 this finding of exemption, no fee is due under California Fish and Game Code Section 711.4.

25 4. The District's officers, staff and consultants are authorized and directed to do all things  
26 necessary and appropriate to carry out this Resolution and to ensure continued and uninterrupted  
27 water service to the District under its water service contract.

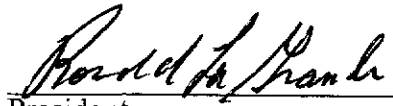
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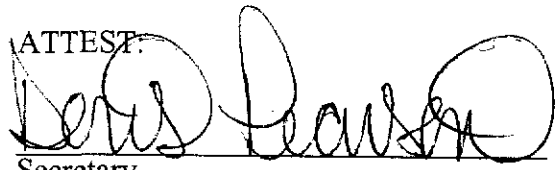
PASSED AND ADOPTED at a regular meeting on July 1, 2004 of the Board  
of Directors by the following vote:

AYES: Ron LaGrande, Larry LaGrande and Zach Dennis

NOES: None

ABSENT: Ken LaGrande and Mike LaGrande

  
\_\_\_\_\_  
President

ATTEST:  
  
\_\_\_\_\_  
Secretary

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