

1 JUNE 21, 2007 DRAFT

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

6 INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
7 AND
8 CITY OF COALINGA
9 PROVIDING FOR PROJECT WATER SERVICE
10 SAN LUIS UNIT AND DELTA DIVISION

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
Preamble	1	
	Explanatory Recitals	2-5
1	Definitions	6-9
2	Term of Contract and Right to Use of Water	9-11
3	Water to be Made Available and Delivered to the Contractor	11-15
4	Time for Delivery of Water	15-16
5	Point of Diversion and Responsibility for Distribution of Water	16-18
6	Measurement of Water Within the Contractor’s Service Area	18-20
7	Rates and Method of Payment for Water	20-24
9	Sales, Transfers, or Exchanges of Water	25
10	Application of Payments and Adjustments	26-27
11	Temporary Reductions--Return Flows	27-28
12	Constraints on the Availability of Water	28-29
13	Unavoidable Groundwater Percolation	29
14	Rules and Regulations	30
15	Water and Air Pollution Control	30
16	Quality of Water	30
17	Water Acquired by the Contractor Other Than From the United States	31-32
18	Opinions and Determinations	33-35
19	Coordination and Cooperation	35
20	Charges for Delinquent Payments	35

Table of Contents - continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
21	Equal Opportunity.....	35-36
22	General Obligation--Benefits Conditioned Upon Payment.....	37
23	Compliance With Civil Rights Laws and Regulations.....	37
24	Privacy Act Compliance.....	38
25	Contractor to Pay Certain Miscellaneous Costs.....	38
26	Water Conservation.....	38-39
27	Existing or Acquired Water or Water Rights.....	40
28	Operation and Maintenance by San Luis & Delta-Mendota Water Authority	40-41
28.1	Operation and Maintenance by California Department of Water Resources ..	41-43
28.2	Operation and Maintenance by Westlands Water District.....	44-45
29	Contingent on Appropriation or Allotment of Funds.....	45
30	Books, Records, and Reports.....	46
31	Assignment Limited--Successors and Assigns Obligated.....	46-47
32	Severability.....	47
33	Resolution of Disputes.....	48
34	Officials Not to Benefit.....	48
35	Changes in Contractor's Service Area.....	48-49
36	Federal Laws.....	49
37	Notices.....	49
	Signature Page.....	50

Exhibit A - Map of Contractor's Service Area

Exhibit B - Rates and Charges

11 UNITED STATES
12 DEPARTMENT OF THE INTERIOR
13 BUREAU OF RECLAMATION
14 Central Valley Project, California
15 INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
16 CITY OF COALINGA
17 PROVIDING FOR PROJECT WATER SERVICE FROM
18 SAN LUIS UNIT AND DELTA DIVISION

19 THIS CONTRACT, made this 1st day of January, 2009, in pursuance generally of the Act of
20 June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but not
21 limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939
22 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 3, 1960 (74 Stat.
23 156), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat.
24 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively
25 hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA,
26 hereinafter referred to as the United States, and CITY OF COALINGA, hereinafter referred to as the
27 Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to
28 the laws thereof;

29 WITNESSETH, That:

30 EXPLANATORY RECITALS

31 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
32 Project, (Project) California, for diversion, storage, carriage, distribution and beneficial use, for flood
33 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and

34 restoration, generation and distribution of electric energy, salinity control, navigation and other
35 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the
36 San Joaquin River and their tributaries; and

37 [2nd] WHEREAS, the United States constructed the Delta Division Facilities, including the
38 San Luis Unit facilities (which include the San Luis Canal, Coalinga Canal, Pleasant Valley Pumping
39 Plant, and Dos Amigos Pumping Plant), which will be used in part for the furnishing of water to the
40 Contractor pursuant to the terms of this Contract; and

41 [3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant
42 to California law for operation of the Project; and

43 [4th] WHEREAS, the United States and the Contractor entered into Contract No. No. 14-
44 06-200-4173A as amended, which provided the Contractor, Project Water from Project facilities from
45 October 28, 1968 to December 31, 2008, hereinafter referred to as the Existing Contract; and

46 [5th] WHEREAS, the United States and the Contractor have pursuant to Subsection
47 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into a
48 binding agreement identified as Binding Agreement No. 14-06-200-4173A-BA, which sets out the
49 terms pursuant to which the Contractor agreed to renew the Existing Contract before the expiration
50 date after completion of the Programmatic Environmental Impact Statement (PEIS) and other
51 appropriate environmental documentation and negotiation of a renewal contract; and which also sets
52 out the consequences of a subsequent decision not to renew: and

53 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
54 Existing Contract following completion of appropriate environmental documentation, including the
55 PEIS, which was required by Section 3409 of the CVPIA, pursuant to the National Environmental

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

58 [7th] WHEREAS, rights of renewal of Existing Contract and to convert said contract to a
59 contract as provided by subsection (d), Section 9 of the Act of August 4, 1939 (53 Stat. 1187), are set
60 forth in said contract; and

61 [8th] WHEREAS, the United States has completed the PEIS, but since all the environmental
62 documentation necessary to execute a long-term renewal contract has not been completed, the
63 Contractor has requested an interim renewal contract pursuant to Section 3404(c)(1) of the CVPIA;
64 and

65 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
66 its obligations under the Existing Contract; and

67 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
68 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
69 beneficial use and expects to utilize fully for reasonable and beneficial use the quantity of Project
70 Water to be made available to it pursuant to this Contract; and

71 [11th] WHEREAS, water obtained from the Project has been relied upon by urban and
72 agricultural areas within California for more than 50 years, and is considered by the Contractor as an
73 essential portion of its water supply; and

74 [11.1] WHEREAS, at the time of execution of this Interim Contract, the United States is the
75 sole source of water supply to the Contractor; and

76 [12th] WHEREAS, the economies of regions within the Project, including the Contractor's,
77 depend upon the continued availability of water, including water service from the Project; and

78 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
79 to pursue measures to improve water supply, water quality, and reliability of the Project for all
80 Project purposes; and

81 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
82 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment
83 of the Project as required by law; to guard reasonably against Project Water shortages; to achieve a
84 reasonable balance among competing demands for use of Project Water; and to comply with all
85 applicable environmental statutes, all consistent with the legal obligations of the United States
86 relative to the Project; and

87 [14.1] WHEREAS, the parties intend by this Contract to develop a more cooperative
88 relationship in order to achieve their mutual goals; and

89 [14.2th] WHEREAS, in the CALFED Programmatic Record of Decision, dated August 28,
90 2000, the United States and the State of California adopted a general target of continuously
91 improving Delta water quality for all uses. The CALFED Agencies' target for providing safe,
92 reliable, and affordable drinking water in a cost-effective way, is to achieve either: (a) average
93 concentrations at Clinton Forebay and other southern and central Delta drinking water intakes of 50
94 ug/L bromide and 3.0 mg/L total organic carbon, or (b) an equivalent level of public health protection
95 using a cost-effective combination of alternative source waters, source control and treatment
96 technologies; and

97 [15th] WHEREAS, the Contractor has utilized or may utilize transfers, contract assignments,
98 rescheduling and conveyance of Project Water and non-Project water under this Contract as tools to
99 minimize the impacts of Conditions of Shortage and to maximize the beneficial use of water; and

100 [15.1] WHEREAS, the parties desire and intend that this Contract not provide a disincentive
101 to the Contractor in continuing to carry out the beneficial activities set out in the Explanatory Recital
102 immediately above; and

103 [15.2] WHEREAS, in order to continue water service provided under Project water service
104 contracts that expire prior to the completion of all appropriate environmental documentation, the
105 United States intends to execute interim renewal contracts for a period not to exceed three (3) Years
106 in length, and for successive interim periods of not more than two (2) Years in length, until such
107 appropriate environmental documentation, is finally completed, at which time the Secretary shall,
108 pursuant to Federal Reclamation law, upon request of the Contractor, enter into a long-term renewal
109 contract for a period of forty (40) Years; and may thereafter renew such long-term renewal contracts
110 for successive periods not to exceed forty (40) Years each; and

111 [15.3] WHEREAS, the Secretary intends to assure uninterrupted water service and continuity
112 of contract through the process set fourth in Article 2 hereof; and

113 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
114 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

117

118 DEFINITIONS

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

121 (a) "Calendar Year" shall mean the period January 1 through December 31, both

122 dates inclusive;

123 (b) “Charges” shall mean the payments required by Federal Reclamation law in
124 addition to the Rates as determined annually by the Contracting Officer pursuant to this Contract;

125 (c) “Condition of Shortage” shall mean a condition respecting the Project during
126 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract;

127 (d) “Contracting Officer” shall mean the Secretary of the Interior’s duly
128 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or
129 regulation;

130 (e) “Contract Total” shall mean the maximum amount of water to which the
131 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

132 (f) “Contractor's Service Area” shall mean the area to which the Contractor is
133 permitted to provide Project Water under this Contract as described in Exhibit “A” attached hereto,
134 which may be modified from time to time in accordance with Article 35 of this Contract without
135 amendment of this Contract;

136 (g) “CVPIA” shall mean the Central Valley Project Improvement Act, Title
137 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

138 (g.1) “Delta Division Facilities” shall mean those existing and future Project
139 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to, the
140 Tracy Pumping Plant, the O’Neill Forebay, the O’Neill Pumping/Generating Plant, and the San Luis
141 Reservoir, used to divert, store, and convey water to those Project Contractors entitled to receive
142 water conveyed through the Delta-Mendota Canal;

143 (h-l) **Omitted;**

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

147 (n) Omitted;

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

154 (p) "Omitted;"

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

158 (r) "Operating Non-Federal Entity" shall mean the entity(ies), its (their)
159 successors or assigns, which has (have) the obligation to operate and maintain all or a portion of the
160 Delta Division Facilities pursuant to written agreement(s) with the United States. When this Contract
161 was entered into, the Operating Non-Federal Entities were the San Luis & Delta-Mendota Water
162 Authority and, with respect to San Luis Unit facilities and the California Department of Water
163 Resources and Westlands Water District;

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

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

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

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

174 (w) Omitted

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

178 (y) Omitted

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

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

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

187 (cc) "Year" shall mean the period from and including March 1 of each Calendar

188 Year through the last day of February of the following Calendar Year.

189 TERM OF CONTRACT - RIGHT TO USE OF WATER

190 2. (a) This Contract shall be effective from **January 1, 2009** and shall remain in
191 effect through **February 28, 2011**, and thereafter will be renewed as described in this Article. Except
192 as provided in subdivision (b) of this Article, until completion of all appropriate environmental
193 review, and provided that the Contractor has complied with all the terms and conditions of the
194 interim renewal contract in effect for the period immediately preceding the requested successive
195 interim renewal contract, this Contract will be renewed, upon request of the Contractor, for
196 successive interim periods each of which shall be no more than two (2) Years in length. Also, except
197 as provided in subdivision (b) of this Article, in order to promote orderly and cost effective contract
198 administration, the terms and conditions in subsequent interim renewal contracts shall be identical to
199 the terms and conditions in the interim renewal contract immediately preceding the subsequent
200 interim renewal contract: Provided, however, That each party preserves the right to propose
201 modification(s) in any interim renewal contract other than those described in subdivision (b) of this
202 Article, in which case the parties shall negotiate in good faith appropriate modification(s) to be
203 included in any successive interim renewal contracts. Said modification(s) of each successive
204 interim renewal contract shall be agreed upon within a reasonable time prior to the expiration of the
205 then existing interim renewal contract. Nothing in this Article shall in any way alter the obligation
206 that, upon final completion of any necessary environmental documentation, the Secretary shall,
207 pursuant to Federal Reclamation law, upon request of the Contractor, enter into a long-term renewal
208 contract for a period of forty (40) Years and may thereafter renew such long-term renewal contracts
209 for successive periods not to exceed forty (40) Years each.

210 (b) The parties have engaged and if necessary will continue to engage in
211 good faith negotiations intended to permit the execution of a forty (40) Year long-term renewal
212 contract contemplated by Section 3404 (c) of the CVPIA, hereinafter referred to as a “long-term
213 renewal contract”. The parties recognize the possibility that this schedule may not be met without
214 further negotiations. Accordingly: In the event (i) the Contractor and Contracting Officer have
215 reached agreement on the terms of the Contractor’s long-term renewal contract or (ii) the Contractor
216 and Contracting Officer have not completed the negotiations on the Contractor’s long-term renewal
217 contract, believe that further negotiations on that contract would be beneficial, and mutually commit
218 to continue to negotiate to seek to reach agreement, but (iii) all environmental documentation
219 required to allow execution of the Contractor’s long-term renewal contract by both parties has not
220 been completed in time to allow execution of the Contractor’s long-term renewal contract by
221 **February 28, 2011**, then (iv), the parties will expeditiously complete the environmental
222 documentation required of each of them in order to execute the Contractor’s long-term renewal
223 contract at the earliest practicable date. In addition, the Contractor’s then current interim renewal
224 contract will be renewed without change upon the request of either party through the agreed-upon
225 effective date of the Contractor’s long-term renewal contract or, in the absence of agreement on the
226 terms of the Contractor’s long-term renewal contract, through the succeeding February 28.

227 (c) The omission of language in this Contract providing for conversion of this
228 interim renewal contract or any subsequent renewals thereof to a repayment contract, pursuant to the
229 Act of July 2, 1956 (70 Stat. 483), shall not prejudice the Contractor’s right to assert a right to have
230 such language included in subsequent renewals of this Contract or to exercise such conversion, all as

231 provided by law, or to negotiate the language regarding such conversion to be included in subsequent
232 renewal contracts.

233 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

234 3. (a) During each Year, consistent with all applicable State water rights permits, and
235 licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this Contract, the
236 Contracting Officer shall make available for delivery to the Contractor 10,000 acre-feet of Project
237 Water for M&I purposes. Provided, however, during the two (2) month period of January and
238 February of Year, 2009, the Contracting Officer shall make available for delivery to the Contractor
239 that portion of the 2008 allocation of Project Water unused by the Contractor under the Existing
240 Contract. Water Delivered to the Contractor in accordance with this subdivision shall be scheduled
241 and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

242 (b) Because the capacity of the Project to deliver Project Water has been
243 constrained in recent years and may be constrained in the future due to many factors including
244 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor
245 actually receiving the amount of Project Water set out in subdivision (a) of this Article in any given
246 Year is uncertain. The Contracting Officer's modeling referenced in the PEIS projected that the
247 Contract Total set forth in this Contract will not be available to the Contractor in many years.
248 Nothing in this subdivision (b) of this Article shall affect the rights and obligations of the parties
249 under any provision of this Contract.

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

252 (c.1) Omitted

253 (d) The Contractor shall make reasonable and beneficial use of all water furnished
254 pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu), groundwater
255 banking programs, surface water storage programs, and other similar programs utilizing Project
256 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service
257 Area which are consistent with applicable State law and result in use consistent with Federal
258 Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are) described in
259 the Contractor's water conservation plan submitted pursuant to Article 26 of this Contract; Provided,
260 further, That such water conservation plan demonstrates sufficient lawful uses exist in the
261 Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is
262 demonstrated to be reasonable for such uses and in compliance with Federal Reclamation law.
263 Groundwater recharge programs, groundwater banking programs, surface water storage programs,
264 and other similar programs utilizing Project Water or other water furnished pursuant to this Contract
265 conducted outside the Contractor's Service Area may be permitted upon written approval of the
266 Contracting Officer, which approval will be based upon environmental documentation, Project Water
267 rights, and Project operational concerns. The Contracting Officer will address such concerns in
268 regulations, policies, or guidelines.

269 (e) The Contractor shall comply with requirements applicable to the Contractor in
270 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
271 undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended, that are
272 within the Contractor's legal authority to implement. The Existing Contract, which evidences in
273 excess of 40 years of diversions for M&I purposes of the quantities of Project Water provided in
274 subdivision (a) of Article 3 of this Contract, will be considered in developing an appropriate baseline

275 for the biological assessment(s) prepared pursuant to the ESA, and any other needed environmental
276 review. Nothing herein shall be construed to prevent the Contractor from challenging or seeking
277 judicial relief in a court of competent jurisdiction with respect to any biological opinion or other
278 environmental documentation referred to in this Article.

279 (f) Following the declaration of Water Made Available under Article 4 of this
280 Contract, the Contracting Officer will make a determination whether Project Water, or other water
281 available to the Project, can be made available to the Contractor in addition to the Contract Total
282 under this Article during the Year without adversely impacting other Project Contractors. At the
283 request of the Contractor, the Contracting Officer will consult with the Contractor prior to making
284 such a determination. If the Contracting Officer determines that Project Water, or other water
285 available to the Project, can be made available to the Contractor, the Contracting Officer will
286 announce the availability of such water and shall so notify the Contractor as soon as practical. The
287 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of
288 taking such water to determine the most equitable and efficient allocation of such water. If the
289 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make
290 such water available to the Contractor in accordance with applicable statutes, regulations, guidelines,
291 and policies. Subject to existing interim renewal and long-term contractual commitments, water
292 rights and operational constraints, interim renewal and long-term Project Contractors shall have a
293 first right to acquire such water, including Project Water made available pursuant to Section 215 of
294 the RRA.

295 (g) The Contractor may request permission to reschedule for use during the
296 subsequent Year some or all of the Water Made Available to the Contractor during the current Year,

297 referred to as “rescheduled water.” The Contractor may request permission to use during the current
298 Year a quantity of Project Water which may be made available by the United States to the Contractor
299 during the subsequent Year referred to as “preuse.” The Contracting Officer’s written approval may
300 permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

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

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

312 (j) The Contracting Officer shall make reasonable efforts to protect the water
313 rights necessary for the Project and to provide the water available under this Contract and any
314 renewal thereof. The Contracting Officer shall not object to participation by the Contractor, in the
315 capacity and to the extent permitted by law, in administrative proceedings related to the Project
316 Water rights; Provided, that the Contracting Officer retains the right to object to the substance of the
317 Contractor’s position in such a proceeding; Provided, further, That in such proceedings the
318 Contracting Officer shall recognize the Contractor has a legal right under the terms of this Contract to

319 use Project Water.

320 TIME FOR DELIVERY OF WATER

321 4. (a) On or about February 20 each Calendar Year, the Contracting Officer shall
322 announce the Contracting Officer's expected declaration of the Water Made Available. Such
323 declaration will be expressed in terms of Water Made Available and will be updated monthly, and
324 more frequently if necessary, based on then-current operational and hydrologic conditions and a new
325 declaration with changes, if any, to the Water Made Available will be made. The Contracting Officer
326 shall provide forecasts of Project operations and the basis of the estimate, with relevant supporting
327 information, upon the written request of the Contractor.

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

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

337 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
338 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
339 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
340 revision(s) thereto satisfactory to the Contracting Officer, submitted within a reasonable time prior to

341 the date(s) on which the requested change(s) is/are to be implemented.

342 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

343 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
344 Contract shall be delivered to the Contractor at Project facilities and any additional point or points of
345 delivery either on Project facilities or another location or locations mutually agreed to in writing by
346 the Contracting Officer and the Contractor.

347 (b) The Contracting Officer, either directly or indirectly through its written
348 agreements(s) with the Operating Non-Federal Entity(ies), shall make all reasonable efforts to
349 maintain sufficient flows and levels of water in the Project facilities to deliver Project Water to the
350 Contractor at the point or points of delivery established pursuant to subdivision (a) of this Article.

351 (c) The Contractor shall not deliver Project Water to land outside the Contractor's
352 Service Area unless approved in advance by the Contracting Officer.

353 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
354 measured and recorded with equipment furnished, installed, operated, and maintained by the
355 Contracting Officer either directly or indirectly through its written agreements(s) with the Operating
356 Non-Federal Entity(ies), unless undertaken by the Contractor with the consent of the Contracting
357 Officer at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon
358 the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be
359 investigated by the appropriate Operating Non-Federal Entity (ies) the accuracy of such
360 measurements and shall take any necessary steps to adjust any errors appearing therein. For any
361 period of time when accurate measurements have not been made, the Contracting Officer shall
362 consult with the Contractor and the appropriate Operating Non-Federal Entity(ies), if any, prior to

363 making a final determination of the quantity delivered for that period of time.

364 (e) Absent a separate contrary written agreement with the Contractor, neither the
365 Contracting Officer nor any Operating Non-Federal Entity(ies) shall be responsible for the control,
366 carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
367 Contract beyond the point or points of delivery established pursuant to subdivision (a) of this Article.
368 The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on
369 account of damage or claim of damage of any nature whatsoever for which there is legal
370 responsibility, including property damage, personal injury, or death arising out of or connected with
371 the control, carriage, handling, use, disposal, or distribution of such Water Delivered beyond such
372 point or points of delivery except for any damage or claim arising out of: (i) acts or omissions of the
373 Contracting Officer or any of its officers, employees, agents, and assigns, including any responsible
374 Operating Non-Federal Entity(ies), with the intent of creating the situation resulting in any damage or
375 claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, and
376 assigns, including any responsible Operating Non-Federal Entity; (iii) negligence of the Contracting
377 Officer or any of its officers, employees, agents, and assigns including the Operating Non-Federal
378 Entity(ies); or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated
379 by the United States or responsible Operating Non-Federal Entity(ies).

380 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

381 6. (a) The Contractor has established a measuring program satisfactory to the
382 Contracting Officer. The Contractor shall ensure that, unless the Contractor establishes an alternative
383 measurement program satisfactory to the Contracting Officer, all surface water delivered for M&I
384 purposes is measured at each M&I service connection. The water measuring devices or water

385 measuring methods of comparable effectiveness must be acceptable to the Contracting Officer. The
386 Contractor shall be responsible for installing, operating, and maintaining and repairing all such
387 measuring devices and implementing all such water measuring methods at no cost to the United
388 States. The Contractor shall use the information obtained from such water measuring devices or
389 water measuring methods to ensure its proper management of the water; to bill water users for water
390 delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes by
391 customer class as defined in the Contractor's water conservation plan provided for in Article 26 of
392 this Contract. Nothing herein contained, however, shall preclude the Contractor from establishing
393 and collecting any charges, assessments, or other revenues authorized by California law. The
394 Contractor shall include a summary of all its annual surface water deliveries in the annual report
395 described in subdivision (c) of Article 26.

396 (b) To the extent the information has not otherwise been provided, upon execution
397 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
398 the measurement devices or water measuring methods being used or to be used to implement
399 subdivision (a) of this Article and identifying the M&I service connections or alternative
400 measurement programs approved by the Contracting Officer, at which such measurement devices or
401 water measuring methods are being used, and, if applicable, identifying the locations at which such
402 devices and/or methods are not yet being used including a time schedule for implementation at such
403 locations. The Contracting Officer shall advise the Contractor in writing within 60 days as to the
404 adequacy and necessary modifications, if any, of the measuring devices or water measuring methods
405 identified in the Contractor's report and if the Contracting Officer does not respond in such time, they
406 shall be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring

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

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

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

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

420 RATES AND METHOD OF PAYMENT FOR WATER

421 7. (a) The Contractor shall pay the United States as provided in this Article for all
422 Delivered Water at Rates and Charges established in accordance with: (i) the Secretary's then-
423 existing ratesetting policy for M&I Water. Such ratesetting policies shall be amended, modified, or
424 superseded only through a public notice and comment procedure; (ii) applicable Federal Reclamation
425 law and associated rules and regulations, or policies; and (iii) other applicable provisions of this
426 Contract. Payments shall be made by cash transaction, electronic funds transfer, or any other
427 mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The Rates
428 and Charges applicable to the Contractor upon execution of this Contract are set forth in Exhibit "B,"

429 as may be revised annually.

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

432 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the
433 Contractor an estimate of the Charges for Project Water that will be applied to the period October 1,
434 of the current Calendar Year, through September 30, of the following Calendar Year, and the basis
435 for such estimate. The Contractor shall be allowed not less than two months to review and comment
436 on such estimates. On or before September 15 of each Calendar Year, the Contracting Officer shall
437 notify the Contractor in writing of the Charges to be in effect during the period October 1 of the
438 current Calendar Year, through September 30, of the following Calendar Year, and such notification
439 shall revise Exhibit "B."

440 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall
441 make available to the Contractor an estimate of the Rates for Project Water for the following Year
442 and the computations and cost allocations upon which those Rates are based. The Contractor shall be
443 allowed not less than two months to review and comment on such computations and cost allocations.

444 By December 31 of each Calendar Year, the Contracting Officer shall provide the Contractor with
445 the final Rates to be in effect for the upcoming Year, and such notification shall revise Exhibit "B."

446 (c) At the time the Contractor submits the initial schedule for the delivery of
447 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
448 shall make an advance payment to the United States equal to the total amount payable pursuant to the
449 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
450 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end

451 of the first month and before the end of each calendar month thereafter, the Contractor shall make an
452 advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the
453 Water Scheduled to be delivered pursuant to this Contract during the second month immediately
454 following. Adjustments between advance payments for Water Scheduled and payments at Rates due
455 for Water Delivered shall be made before the end of the following month; Provided, That any revised
456 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the
457 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with
458 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered
459 to the Contractor in advance of such payment. In any month in which the quantity of Water
460 Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid
461 for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and
462 until an advance payment at the Rates then in effect for such additional Project Water is made. Final
463 adjustment between the advance payments for the Water Scheduled and payments for the quantities
464 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable
465 but no later than April 30th of the following Year, or 60 days after the delivery of Project Water
466 “rescheduled” under subdivision (g) of Article 3 of this Contract if such water is not delivered by the
467 last day of February.

468 (d) The Contractor shall also make a payment in addition to the Rate(s) in
469 subdivision (c) of this Article to the United States for Water Delivered, at the Charges then in effect,
470 before the end of the month of delivery. The payments shall be consistent with the quantities of M&I
471 Water Delivered as shown in the water delivery report for the subject month prepared by the
472 Operating Non-Federal Entity(ies) or, if there is no Operating Non-Federal Entity, by the Contracting

473 Officer. The water delivery report shall be deemed a bill for the payment of Charges for Water
474 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the
475 adjustment of payments due to the United States for Charges for the next month. Any amount to be
476 paid for past due payment of Charges shall be computed pursuant to Article 20 of this Contract.

477 (e) The Contractor shall pay for any Water Delivered under subdivision (d), (f),
478 or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
479 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;
480 Provided, That the Rate for Water Delivered under subdivision (d) or (f) of Article 3 of this Contract
481 shall be no more than the otherwise applicable Rate for M&I Water under subdivision (a) of this
482 Article.

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

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

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

495 enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings,
496 reports, or information.

497 (i) The parties acknowledge and agree that the efficient administration of this
498 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
499 policies, and procedures used for establishing Rates and Charges and/or for making and allocating
500 payments, other than those set forth in this Article may be in the mutual best interest of the parties, it
501 is expressly agreed that the parties may enter into agreements to modify the mechanisms, policies,
502 and procedures for any of those purposes while this Contract is in effect without amending this
503 Contract.

504 (j) Omitted

505 (1-3) Omitted

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

514 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
515 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
516 upward or downward to reflect the changed costs of delivery (if any) of the transferred Project Water

517 to the transferee’s point of delivery in accordance with the then applicable CVP Ratesetting Policy.

518 (m-n) Omitted.

519

520 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

521 8. Omitted

522 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

533 (b) In order to facilitate efficient water management by means of water transfers of
534 the type historically carried out among Project Contractors located within the same geographical area
535 and to allow the Contractor to participate in an accelerated water transfer program during the term of
536 this Contract, the Contracting Officer shall prepare, as appropriate, all necessary environmental
537 documentation including, but not limited to documents prepared pursuant to the NEPA and the ESA
538 analyzing annual transfers within such geographical areas and the Contracting Officer shall

539 determine whether such transfers comply with applicable law. Following the completion of the
540 environmental documentation, such transfers addressed in such documentation shall be conducted
541 with advance notice to the Contracting Officer, but shall not require prior written approval by the
542 Contracting Officer. Such environmental documentation and the Contracting Officer's compliance
543 determination shall be reviewed every five years and updated, as necessary, prior to the expiration of
544 the then existing five-year period. All subsequent environmental documentation shall include an
545 alternative to evaluate not less than the quantity of Project Water historically transferred within the
546 same geographical area.

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

557 APPLICATION OF PAYMENTS AND ADJUSTMENTS

558 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
559 capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
560 the Contractor arising out of this Contract then due and payable. Overpayments of more than \$1,000

561 shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment at
562 the option of the Contractor, may be credited against amounts to become due to the United States by
563 the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole
564 remedy of the Contractor or anyone having or claiming to have the right to the use of any of the
565 Project Water supply provided for herein. All credits and refunds of overpayments shall be made
566 within 30 days of the Contracting Officer obtaining direction as to how to credit or refund such
567 overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year
568 in which the overpayment was made.

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

574 TEMPORARY REDUCTIONS--RETURN FLOWS

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

580 (b) The Contracting Officer or Operating Non-Federal Entity(ies) may temporarily
581 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the
582 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project

583 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far
584 as feasible the Contracting Officer or Operating Non-Federal Entity(ies) will give the Contractor due
585 notice in advance of such temporary discontinuance or reduction, except in case of emergency, in
586 which case no notice need be given; Provided, That the United States shall use its best efforts to
587 avoid any discontinuance or reduction in such service. Upon resumption of service after such
588 reduction or discontinuance, and if requested by the Contractor, the United States will, if possible,
589 deliver the quantity of Project Water which would have been delivered hereunder in the absence of
590 such discontinuance or reduction.

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

597 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

603 (b) If there is a Condition of Shortage because of errors in physical operations of
604 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions

605 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a)
606 of Article 18 of this Contract, no liability shall accrue against the United States or any of its officers,
607 agents, or employees for any damage, direct or indirect, arising therefrom.

608 (c) Omitted.

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

612 (e) By entering into this Contract, the Contractor does not waive any legal rights
613 or remedies it may have to file or participate in any administrative or judicial proceeding contesting;
614 (i) the sufficiency of the Central Valley Project M&I Water Shortage Policy; (ii) the substance of
615 such a policy; (iii) the applicability of such a policy; or (iv) the manner in which such policy is
616 implemented in order to allocate Project Water between municipal and industrial and irrigation
617 purposes; Provided, That the Contractor has commenced any such judicial challenge or any
618 administrative procedures necessary to institute any judicial challenge within 6 months of the policy
619 becoming final. By agreeing to the foregoing, the Contracting Officer does not waive any legal
620 defenses or remedies that it may have to assert in such a proceeding. Nothing contained herein shall
621 be interpreted to validate or invalidate the Central Valley Project M&I Water Shortage Policy.

622 UNAVOIDABLE GROUNDWATER PERCOLATION

623 13. Omitted

624 RULES AND REGULATIONS

625 14. The parties agree that the delivery of M&I Water or use of Federal facilities pursuant
626 to this Contract is subject to the applicable provisions of Federal Reclamation law and any applicable

627 rules and regulations promulgated by the Secretary of the Interior under such law.

628 WATER AND AIR POLLUTION CONTROL

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

632 QUALITY OF WATER

633 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to
634 this Contract shall be operated and maintained to enable the United States to deliver Project Water to
635 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act
636 of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat.
637 3050) or other existing Federal laws. The United States is under no obligation to construct or furnish
638 water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor
639 pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the
640 Contractor pursuant to this Contract.

641 (b) The O&M of Project facilities shall be performed in such manner as is
642 practicable to maintain the quality of raw water made available through such facilities at the highest
643 level reasonably attainable as determined by the Contracting Officer.

644 (c) Omitted

645 WATER ACQUIRED BY THE CONTRACTOR
646 OTHER THAN FROM THE UNITED STATES

647 17. (a) Omitted

648 (b) Water or water rights now owned or hereafter acquired by the Contractor,
649 other than from the United States, may be stored, conveyed, and/or diverted through Project facilities,

650 subject to the completion of appropriate environmental documentation, with the approval of the
651 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
652 necessary, consistent with the following provisions:

653 (1) The Contractor may introduce non-Project water into Project facilities
654 and deliver said water to lands within the Contractor's Service Area, subject to payment to the United
655 States and/or to any applicable Operating Non-Federal Entity of an appropriate rate as determined by
656 the CVP Ratesetting Policy and the RRA, each as amended, modified, or superseded from time to
657 time. In addition, if electrical power is required to pump non-Project water through the facilities, the
658 Contractor shall be responsible for obtaining the necessary power and paying the necessary charges
659 therefore.

660 (2) Delivery of such non-Project water in and through Project facilities
661 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as
662 determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other
663 Project water service contractors; (iii) interfere with the delivery of contractual water entitlements to
664 any other Project water service contractors; or (iv) interfere with the physical maintenance of the
665 Project facilities.

666 (3) Neither the United States nor the Operating Non-Federal Entity(ies)
667 shall be responsible for control, care or distribution of the non-Project water before it is introduced
668 into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to
669 defend and indemnify the United States and the Operating Non-Federal Entity(ies), and their
670 respective officers, agents, and employees, from any claim for damage to persons or property, direct
671 or indirect, resulting from the acts(s) the Contractor or its officers, employees, agents, or assigns, in

672 (i) extracting or diverting non-Project water from any source, or (ii) diverting such non-Project water
673 into Project facilities.

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

677 (5) After Project purposes are met, as determined by the Contracting
678 Officer, the United States and the Project Contractors entitled to Project Water from Delta Division
679 Facilities shall share priority to utilize the remaining capacity of the facilities declared to be available
680 by the Contracting Officer for conveyance and transportation of non-Project water prior to any such
681 remaining capacity being made available to non-Project contractors. Other Project Contractors shall
682 have a second priority to any remaining capacity of facilities declared to be available by the
683 Contracting Officer for conveyance and transportation of non-Project water prior to any such
684 remaining capacity being made available to non-Project contractors.

685 OPINIONS AND DETERMINATIONS

686 18. (a) Where the terms of this Contract provide for actions to be based upon the
687 opinion or determination of either party to this Contract, said terms shall not be construed as
688 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
689 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
690 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
691 unreasonable opinion or determination. Each opinion or determination by either party shall be
692 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall
693 affect or alter the standard of judicial review applicable under Federal law to any opinion or

694 determination implementing a specific provision of Federal law embodied in statute or regulation.

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

700 COORDINATION AND COOPERATION

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

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

716 (c) In light of the factors referred to in subdivision (b) of Article 3 of this
717 Contract, it is the intent of the Secretary to improve water supply reliability. To carry out this intent:
718 (1) The Contracting Officer will, at the request of the Contractor, assist in
719 the development of integrated resource management plans for the Contractor. Further, the
720 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
721 improve water supply, water quality, and reliability.

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

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

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

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

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

737

CHARGES FOR DELINQUENT PAYMENTS

738 20. (a) The Contractor shall be subject to interest, administrative and penalty charges
739 on delinquent installments or payments. When a payment is not received by the due date, the
740 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
741 When a payment becomes 60 days delinquent, the Contractor shall pay an administrative charge to
742 cover additional costs of billing and processing the delinquent payment. When a payment is
743 delinquent 90 days or more, the Contractor shall pay an additional penalty charge of six percent per
744 year for each day the payment is delinquent beyond the due date. Further, the Contractor shall pay
745 any fees incurred for debt collection services associated with a delinquent payment.

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

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

754

EQUAL OPPORTUNITY

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

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

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

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

773 employment.

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

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

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

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

798 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

809 (c) With respect to subdivision (b) of this Article, the Contractor shall have no

810 obligation to require advance payment for water rates which it levies.

811 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

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

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

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

830 PRIVACY ACT COMPLIANCE

831 24. Omitted

832

833 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

841 administration

842

WATER CONSERVATION

843 26. (a) Prior to the delivery of water provided from or conveyed through Federally
844 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
845 implementing an effective water conservation and efficiency program based on the Contractor's water
846 conservation plan that has been determined by the Contracting Officer to meet the conservation and
847 efficiency criteria for evaluating water conservation plans established under Federal law. The water
848 conservation and efficiency program shall contain definite water conservation objectives, appropriate
849 economically feasible water conservation measures, and time schedules for meeting those objectives.
850 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
851 continued implementation of such water conservation program. In the event the Contractor's water
852 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
853 this Article 26 have not yet been determined by the Contracting Officer to meet such criteria, due to
854 circumstances which the Contracting Officer determines are beyond the control of the Contractor,
855 water deliveries shall be made under this Contract so long as the Contractor diligently works with the
856 Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the
857 Contractor immediately begins implementing its water conservation and efficiency program in
858 accordance with the time schedules therein.

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

863 Officer to be inappropriate for the Contractor.

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

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

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

875 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

883 OPERATION AND MAINTENANCE BY SAN LUIS & DELTA-MENDOTA WATER 884 AUTHORITY

885 28. (a) The O&M of a portion of the Project facilities which serve the Contractor, and

886 responsibility for funding a portion of the costs of such O&M, have been transferred to the San Luis
887 & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement (8-07-
888 20-X0354) between the United States and the Operating Non-Federal Entity San Luis & Delta-
889 Mendota Water Authority. That separate agreement shall not interfere with or affect the rights or
890 obligations of the Contractor or the United States hereunder.

891 (b) The Contracting Officer has previously notified the Contractor in writing that
892 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the
893 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, and therefore, the
894 Contractor shall pay directly to the Operating Non-Federal Entity San Luis & Delta-Mendota Water
895 Authority, or to any successor approved by the Contracting Officer under the terms and conditions of
896 the separate agreement between the United States and the Operating Non-Federal Entity San Luis &
897 Delta-Mendota Water Authority, described in subdivision (a) of this Article, all rates, charges, or
898 assessments of any kind, including any assessment for reserve funds, which the Operating
899 Non-Federal Entity San Luis & Delta-Mendota Water Authority, or such successor determines, sets,
900 or establishes for the O&M of the portion of the Project facilities operated and maintained by the
901 Operating Non-Federal Entity or such successor. Such direct payments to the Operating Non-Federal
902 Entity San Luis & Delta-Mendota Water Authority, or such successor shall not relieve the Contractor
903 of its obligation to pay directly to the United States the Contractor's share of the Project Rates and
904 Charges except to the extent the Operating Non-Federal Entity collects payments on behalf of the
905 United States in accordance with the separate agreement identified in subdivision (a) of this Article.

906 (c) For so long as the O&M of any portion of the Project facilities serving the
907 Contractor is performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water

908 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the
909 Rates for Water Delivered under this Contract representing the cost associated with the activity being
910 performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, or its
911 successor.

912 (d) In the event the O&M of the Project facilities operated and maintained by the
913 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by the
914 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,
915 in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the
916 Rates to be paid by the Contractor for Project Water under this Contract representing the O&M costs
917 of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter,
918 in the absence of written notification from the Contracting Officer to the contrary, pay the Rates and
919 Charges specified in the revised Exhibit "B" directly to the United States in compliance with Article
920 7 of this Contract.

921 OPERATION AND MAINTENANCE BY
922 CALIFORNIA DEPARTMENT OF WATER RESOURCES

923 28.1 (a) The O&M of a portion of the Project facilities which serve the Contractor, and
924 responsibility for funding a portion of the costs of such O&M, have been transferred to the California
925 Department of Water Resources, an Operating Non-Federal Entity by a separate agreement (14-06-
926 200-9755) between the United States and Operating Non-Federal Entity California Department of
927 Water Resources. This separate agreement shall not interfere with or affect the rights or obligations
928 of the Contractor or the United States hereunder.

929 (b) The Contracting Officer has previously notified the Contractor in writing that
930 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to

931 Operating Non-Federal Entity California Department of Water Resources, and the Contractor shall
932 pay directly to Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, or to any
933 successor approved by the Contracting Officer under the terms and conditions of the separate
934 agreement between the United States and Operating Non-Federal Entity San Luis & Delta-Mendota
935 Water Authority, described in subdivision (a) of Article 28 of this Contract, all rates, charges, or
936 assessments of any kind, including any assessment for reserve funds, which Operating Non-Federal
937 Entity California Department of Water Resources, or such successor determines, sets, or establishes
938 for the O&M of the portion of the Project facilities operated and maintained by Operating Non-
939 Federal Entity California Department of Water Resources, or such successor. Such direct payments
940 to Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, or such successor shall
941 not relieve the Contractor of its obligation to pay directly to the United States the Contractor's share
942 of the Project Rates and Charges except to the extent the Operating Non-Federal Entity collects
943 payments on behalf of the United States in accordance with the separate agreement identified in
944 subdivision (a) of Article 28 of this Contract.

945 (c) For so long as the O&M of any portion of the Project facilities serving the
946 Contractor is performed by Operating Non-Federal Entity California Department of Water Resources,
947 or any successor thereto, the Contracting Officer shall adjust those components of the Rates for
948 Water Delivered under this Contract representing the cost associated with the activity being
949 performed by Operating Non-Federal Entity California Department of Water Resources, or its
950 successor.

951 (d) In the event the O&M of the Project facilities operated and maintained by
952 Operating Non-Federal Entity California Department of Water Resources is re-assumed by the

953 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,
954 in writing, and present to the Contractor a revised Exhibit “B” which shall include the portion of the
955 Rates and Charges, to be paid by the Contractor for Project Water under this Contract representing
956 the O&M costs of the portion of such Project facilities which have been re-assumed. The Contractor
957 shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary,
958 pay the Rates and Charges specified in the revised Exhibit “B” directly to the United States in
959 compliance with Article 7 of this Contract.

960 OPERATION AND MAINTENANCE BY WESTLANDS WATER DISTRICT

961 28.2 (a) The O&M of a portion of the Project facilities which serve the
962 Contractor, and responsibility for funding a portion of the costs of such O&M, have been transferred
963 to the Westlands Water District, the Operating Non-Federal Entity Westlands Water District by a
964 separate contract (14-06-200-2020A) between the United States and Westlands Water District, the
965 Operating Non-Federal Entity Westlands Water District. That above referenced contract shall not
966 interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

967 (b) The Contracting Officer has previously notified the Contractor in
968 writing that the O&M of a portion of the Project facilities which serve the Contractor has been
969 transferred to the Operating Non-Federal Entity Westlands Water District. Therefore, the Contractor
970 shall enter into a separate agreement with the Operating Non-Federal Entity Westlands Water District
971 that provides for the terms and conditions pursuant to which the Operating Non-Federal Entity
972 Westlands Water District will deliver Project Water to the Contractor through the portion of the
973 Project facilities operated and maintained by the Operating Non-Federal Entity Westlands Water
974 District, including the amount(s) the Contractor is to pay the Operating Non-Federal Entity

975 Westlands Water District for that service. The Contractor shall pay directly to the Operating Non-
976 Federal Entity Westlands Water District , or to any successor approved by the Contracting Officer,
977 all rates, charges, or assessments of any kind, including any assessment for reserve funds, described
978 in the separate agreement referred to above or any amendatory or replacement agreement approved
979 by the Contracting Officer, which the Operating Non-Federal Entity Westlands Water District and or
980 such successor determines, sets, or establishes for the Operating Non-Federal Entity Westlands Water
981 District or such successor. Such direct payments to the Operating Non-Federal Entity Westlands
982 Water District or such successor shall not relieve the Contractor of its obligation to pay directly to the
983 United States the Contractor's share of the Project Rates and Charges referred to in this Contract.

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

989 (d) In the event the O&M of the Project facilities operated and maintained by the
990 Operating Non-Federal Entity Westlands Water District is re-assumed by the United States during the
991 term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to
992 the Contractor a revised Exhibit "B" which shall include the portion of the Rates and Charges to be
993 paid by the Contractor for Project Water under this Contract representing the O&M costs of the
994 portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the
995 absence of written notification from the Contracting Officer to the contrary, pay the Rates and
996 Charges specified in the revised Exhibit "B" directly to the United States in compliance with Article 7

997 of this Contract.

998 PUMPING PLANTS, POWER FOR PUMPING PLANTS, AND TRANSFER
999 OF OPERATION AND MAINTENANCE TO THE CONTRACTOR

1000 28.3. Omitted

1001 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1002 29. The expenditure or advance of any money or the performance of any obligation of the
1003 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1004 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1005 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1006 or allotted.

1007 BOOKS, RECORDS, AND REPORTS

1008 30. (a) The Contractor shall establish and maintain accounts and other books and
1009 records pertaining to administration of the terms and conditions of this Contract including: the
1010 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
1011 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other
1012 matters that the Contracting Officer may require. Reports thereon shall be furnished to the
1013 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
1014 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right
1015 during office hours to examine and make copies of the other party's books and records relating to
1016 matters covered by this Contract.

1017 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,
1018 records, or other information shall be requested from the Contractor by the Contracting Officer unless
1019 such books, records, or information are reasonably related to the administration or performance of
1020 this Contract. Any such request shall allow the Contractor a reasonable period of time within which
1021 to provide the requested books, records, or information.

1022 (c) At such time as the Contractor provides information to the Contracting Officer
1023 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the
1024 Operating Non-Federal Entity(ies).

1025 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1026 31. (a) The provisions of this Contract shall apply to and bind the successors and
1027 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1028 therein shall be valid until approved in writing by the Contracting Officer.

1029 (b) The assignment of any right or interest in this Contract by either party shall not
1030 interfere with the rights or obligations of the other party to this Contract absent the written
1031 concurrence of said other party.

1032 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1033 of any proposed assignment.

1034 SEVERABILITY

1035 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1036 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
1037 association or other form of organization whose primary function is to represent parties to Project
1038 contracts, brings an action in a court of competent jurisdiction challenging the legality or
1039 enforceability of a provision included in this Contract and said person, entity, association, or
1040 organization obtains a final court decision holding that such provision is legally invalid or
1041 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
1042 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court
1043 decision identify by mutual agreement the provisions in this Contract which must be revised and (ii)
1044 within three months thereafter promptly agree on the appropriate revision(s). The time periods
1045 specified above may be extended by mutual agreement of the parties. Pending the completion of the
1046 actions designated above, to the extent it can do so without violating any applicable provisions of
1047 law, the United States shall continue to make the quantities of Project Water specified in this

1048 Contract available to the Contractor pursuant to the provisions of this Contract which were not found
1049 to be legally invalid or unenforceable in the final court decision.

1050 RESOLUTION OF DISPUTES

1051 33. Should any dispute arise concerning any provisions of this Contract, or the
1052 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve
1053 the dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer
1054 referring any matter to Department of Justice, the party shall provide to the other party 30 days'
1055 written notice of the intent to take such action; Provided, That such notice shall not be required where
1056 a delay in commencing an action would prejudice the interests of the party that intends to file suit.
1057 During the 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in
1058 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
1059 waive or abridge any right or remedy that the Contractor or the United States may have.

1060 OFFICIALS NOT TO BENEFIT

1061
1062 34. No Member of or Delegate to Congress, Resident Commissioner, or official of
1063 the Contractor shall benefit from this Contract other than as a water user or landowner in the same
1064 manner as other water users or landowners.

1065 CHANGES IN CONTRACTOR'S SERVICE AREA

1066 35. (a) While this Contract is in effect, no change may be made in the Contractor's
1067 Service Area by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
1068 except upon the Contracting Officer's written consent.

1069 (b) Within 30 days of receipt of a request for such a change, the Contracting
1070 Officer will notify the Contractor of any additional information required by the Contracting Officer
1071 for processing said request, and both parties will meet to establish a mutually agreeable schedule for
1072 timely completion of the process. Such process will analyze whether the proposed change is likely

1073 to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of
1074 the Contractor to pay for Project Water furnished under this Contract or to pay for any
1075 Federally-constructed facilities for which the Contractor is responsible; and (iii) have an impact on
1076 any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall
1077 comply with the NEPA and the ESA. The Contractor will be responsible for all costs incurred by the
1078 Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of this
1079 Contract.

1080 FEDERAL LAWS

1081 36. By entering into this Contract, the Contractor does not waive its rights to contest the
1082 validity or application in connection with the performance of the terms and conditions of this
1083 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
1084 terms and conditions of this Contract unless and until relief from application of such Federal law or
1085 regulation to the implementing provision of the Contract is granted by a court of competent
1086 jurisdiction.

1087 NOTICES
1088

1089 37. Any notice, demand, or request authorized or required by this Contract shall be
1090 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1091 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 97321,
1092 and on behalf of the United States, when mailed, postage prepaid, or delivered to the City Council of
1093 the City of Coalinga, 160 West Elm, Coalinga, California 93210. The designation of the addressee or
1094 the address may be changed by notice given in the same manner as provided in this Article for other
1095 notices.
1096

1097 IN WITNESS WHEREOF, the parties hereto have executed this Interim Renewal Contract as
1098 of the day and year first above written.

1099
1100

THE UNITED STATES OF AMERICA

1101
1102
1103

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

1104 (SEAL)

1105

Approved as to form:

1106
1107

City Attorney

1108

CITY OF COALINGA

1109
1110

By: _____
Mayor

1111 Attest:

1112
1113
1114

By: _____
City Clerk

EXHIBIT A

[Map or Description of Service Area]

DRAFT

EXHIBIT B
2009 Water Rates and Charges

DRAFT