

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 STATE OF CALIFORNIA PROVIDING FOR PROJECT WATER SERVICE
8 TO THE MENDOTA WATERFOWL MANAGEMENT AREA HEADQUARTERS
9 FROM SAN LUIS UNIT AND DELTA DIVISION
10

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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 STATE OF CALIFORNIA, represented by the
27 CALIFORNIA DEPARTMENT OF FISH AND GAME, hereinafter referred to as the Contractor, a
28 public agency of the State of California, duly organized, existing, and acting pursuant to the laws
29 thereof, with its principal place of business in Sacramento, California;

30 WITNESSETH, That:

31 EXPLANATORY RECITALS

32 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
33 Project, (Project) California, for diversion, storage, carriage, distribution and beneficial use, for flood

34 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
35 restoration, generation and distribution of electric energy, salinity control, navigation and other
36 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the
37 San Joaquin River and their tributaries; and

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

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

44 [4th] WHEREAS, the United States and the Contractor entered into Contract No. No. 14-
45 06-200-8033A as amended, which provided the Contractor, Project Water from Project facilities from
46 January 1, 1976 to December 31, 2008, hereinafter referred to as the Existing Contract; and

47 [5th] WHEREAS, the United States and the Contractor have pursuant to Subsection
48 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into a
49 binding agreement identified as Binding Agreement No. 14-06-200-8033A-BA, which sets out the
50 terms pursuant to which the Contractor agreed to renew the Existing Contract before the expiration
51 date after completion of the Programmatic Environmental Impact Statement (PEIS) and other
52 appropriate environmental documentation and negotiation of a renewal contract; and which also sets
53 out the consequences of a subsequent decision not to renew: and

54 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
55 Existing Contract following completion of appropriate environmental documentation, including the

56 PEIS, which was required by Section 3409 of the CVPIA, pursuant to the National Environmental
57 Policy Act (NEPA) analyzing the direct and indirect impacts and benefits of implementing the
58 CVPIA and the potential renewal of all existing contracts for Project Water; and

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

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

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

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

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

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

77 [12th] WHEREAS, the economies of regions within the Project, including the Contractor's,

78 depend upon the continued availability of water, including water service from the Project; and

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

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

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

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

98 [15th] WHEREAS, the Contractor has utilized or may utilize transfers, contract assignments,
99 rescheduling and conveyance of Project Water and non-Project water under this Contract as tools to

100 minimize the impacts of Conditions of Shortage and to maximize the beneficial use of water; and

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

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

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

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

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

118

119 DEFINITIONS

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

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

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

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

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

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

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

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

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

- 144 (h-l) **Omitted;**
- 145 (m) “Irrigation Water” shall mean water made available from the Project that is
146 used primarily in the production of agricultural crops or livestock, including domestic use incidental
147 thereto, and watering of livestock;
- 148 (n) Omitted;
- 149 (o) “Municipal and Industrial (M&I) Water” shall mean Project Water, other than
150 Irrigation Water, made available to the Contractor. M&I Water shall include water used for human
151 use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are
152 kept for personal enjoyment or water delivered to landholdings operated in units of less than five
153 acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of
154 water delivered to any such landholding is a use described in subdivision (m) of this Article;
- 155 (p) **“Omitted;**
- 156 (q) “Operation and Maintenance” or “O&M” shall mean normal and reasonable
157 care, control, operation, repair, replacement (other than capital replacement), and maintenance of
158 Project facilities;
- 159 (r) “Operating Non-Federal Entity” shall mean the entity(ies), its (their)
160 successors or assigns, which has (have) the obligation to operate and maintain all or a portion of the
161 Delta Division Facilities pursuant to written agreement(s) with the United States. When this Contract
162 was entered into, the Operating Non-Federal Entities were the San Luis & Delta-Mendota Water
163 Authority and, with respect to San Luis Unit facilities and the California Department of Water
164 Resources and Westlands Water District;
- 165 (s) “Project” shall mean the Central Valley Project owned by the United States

166 and managed by the Department of the Interior, Bureau of Reclamation;

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

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

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

175 (w) Omitted

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

179 (y) Omitted

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

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

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

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

190 TERM OF CONTRACT - RIGHT TO USE OF WATER

191 2. (a) This Contract shall be effective from **January 1, 2009** and shall remain in
192 effect through **February 28, 2011**, and thereafter will be renewed as described in this Article. Except
193 as provided in subdivision (b) of this Article, until completion of all appropriate environmental
194 review, and provided that the Contractor has complied with all the terms and conditions of the
195 interim renewal contract in effect for the period immediately preceding the requested successive
196 interim renewal contract, this Contract will be renewed, upon request of the Contractor, for
197 successive interim periods each of which shall be no more than two (2) Years in length. Also, except
198 as provided in subdivision (b) of this Article, in order to promote orderly and cost effective contract
199 administration, the terms and conditions in subsequent interim renewal contracts shall be identical to
200 the terms and conditions in the interim renewal contract immediately preceding the subsequent
201 interim renewal contract: Provided, however, That each party preserves the right to propose
202 modification(s) in any interim renewal contract other than those described in subdivision (b) of this
203 Article, in which case the parties shall negotiate in good faith appropriate modification(s) to be
204 included in any successive interim renewal contracts. Said modification(s) of each successive
205 interim renewal contract shall be agreed upon within a reasonable time prior to the expiration of the
206 then existing interim renewal contract. Nothing in this Article shall in any way alter the obligation
207 that, upon final completion of any necessary environmental documentation, the Secretary shall,
208 pursuant to Federal Reclamation law, upon request of the Contractor, enter into a long-term renewal

209 contract for a period of forty (40) Years and may thereafter renew such long-term renewal contracts
210 for successive periods not to exceed forty (40) Years each.

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

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

231 such language included in subsequent renewals of this Contract or to exercise such conversion, all as
232 provided by law, or to negotiate the language regarding such conversion to be included in subsequent
233 renewal contracts.

234 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

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

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

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

253 (c.1) Omitted

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

270 (e) The Contractor shall comply with requirements applicable to the Contractor in
271 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
272 undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended, that are
273 within the Contractor's legal authority to implement. The Existing Contract, which evidences in
274 excess of 32 years of diversions for M&I purposes of the quantities of Project Water provided in

275 subdivision (a) of Article 3 of this Contract, will be considered in developing an appropriate baseline
276 for the biological assessment(s) prepared pursuant to the ESA, and any other needed environmental
277 review. Nothing herein shall be construed to prevent the Contractor from challenging or seeking
278 judicial relief in a court of competent jurisdiction with respect to any biological opinion or other
279 environmental documentation referred to in this Article.

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

296 (g) The Contractor may request permission to reschedule for use during the

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

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

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

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

319 Contracting Officer shall recognize the Contractor has a legal right under the terms of this Contract to
320 use Project Water.

321 TIME FOR DELIVERY OF WATER

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

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

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

338 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
339 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
340 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written

341 revision(s) thereto satisfactory to the Contracting Officer, submitted within a reasonable time prior to
342 the date(s) on which the requested change(s) is/are to be implemented.

343 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

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

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

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

363 consult with the Contractor and the appropriate Operating Non-Federal Entity(ies), if any, prior to
364 making a final determination of the quantity delivered for that period of time.

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

381 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

382 6. (a) The Contractor has established a measuring program satisfactory to the
383 Contracting Officer. The Contractor shall ensure that, unless the Contractor establishes an alternative
384 measurement program satisfactory to the Contracting Officer, all surface water delivered for M&I

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

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

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

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

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

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

421 RATES AND METHOD OF PAYMENT FOR WATER

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

429 and Charges applicable to the Contractor upon execution of this Contract are set forth in Exhibit “B,”
430 as may be revised annually.

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

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

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

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

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

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

469 (d) The Contractor shall also make a payment in addition to the Rate(s) in
470 subdivision (c) of this Article to the United States for Water Delivered, at the Charges then in effect,
471 before the end of the month of delivery. The payments shall be consistent with the quantities of M&I
472 Water Delivered as shown in the water delivery report for the subject month prepared by the

473 Operating Non-Federal Entity(ies) or, if there is no Operating Non-Federal Entity, by the Contracting
474 Officer. The water delivery report shall be deemed a bill for the payment of Charges for Water
475 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the
476 adjustment of payments due to the United States for Charges for the next month. Any amount to be
477 paid for past due payment of Charges shall be computed pursuant to Article 20 of this Contract.

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

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

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

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

495 and a summary of all water delivery information. The Contracting Officer and the Contractor shall
496 enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings,
497 reports, or information.

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

505 (j) Omitted

506 (1-3) Omitted

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

515 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
516 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted

517 upward or downward to reflect the changed costs of delivery (if any) of the transferred Project Water
518 to the transferee's point of delivery in accordance with the then applicable CVP Ratesetting Policy.

519 (m-n) Omitted.

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

625 RULES AND REGULATIONS

626 14. The parties agree that the delivery of M&I Water or use of Federal facilities pursuant

627 to this Contract is subject to the applicable provisions of Federal Reclamation law and any applicable
628 rules and regulations promulgated by the Secretary of the Interior under such law.

629 WATER AND AIR POLLUTION CONTROL

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

633 QUALITY OF WATER

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

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

645 (c) Omitted

646
647
648 WATER ACQUIRED BY THE CONTRACTOR
649 OTHER THAN FROM THE UNITED STATES

650 17. (a) Omitted

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

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

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

669 (3) Neither the United States nor the Operating Non-Federal Entity(ies)
670 shall be responsible for control, care or distribution of the non-Project water before it is introduced
671 into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to
672 defend and indemnify the United States and the Operating Non-Federal Entity(ies), and their

673 respective officers, agents, and employees, from any claim for damage to persons or property, direct
674 or indirect, resulting from the acts(s) the Contractor or its officers, employees, agents, or assigns, in
675 (i) extracting or diverting non-Project water from any source, or (ii) diverting such non-Project water
676 into Project facilities.

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

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

688 OPINIONS AND DETERMINATIONS

689 18. (a) Where the terms of this Contract provide for actions to be based upon the
690 opinion or determination of either party to this Contract, said terms shall not be construed as
691 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
692 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
693 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
694 unreasonable opinion or determination. Each opinion or determination by either party shall be

695 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall
696 affect or alter the standard of judicial review applicable under Federal law to any opinion or
697 determination implementing a specific provision of Federal law embodied in statute or regulation.

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

703 COORDINATION AND COOPERATION

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

713 (b) Within 120 days following the effective date of this Contract, the Contractor,
714 other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested
715 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be
716 amended as necessary separate and apart from this Contract. The goal of this process shall be to

717 provide, to the extent practicable, the means of mutual communication and interaction regarding
718 significant decisions concerning Project operation and management on a real-time basis.

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

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

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

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

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

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

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

739 physical integrity of structures or facilities.

740 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

757 EQUAL OPPORTUNITY

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

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

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

771 (c) The Contractor will send to each labor union or representative of workers with
772 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
773 provided by the Contracting Officer, advising the said labor union or workers' representative of the

774 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
775 shall post copies of the notice in conspicuous places available to employees and applicants for
776 employment.

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

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

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

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

801 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

814 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

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

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

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

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PRIVACY ACT COMPLIANCE

836 24. Omitted
837

838 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

839 25. In addition to all other payments to be made by the Contractor pursuant to this
840 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
841 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of
842 direct cost incurred by the United States for work requested by the Contractor associated with this

843 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
844 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in
845 writing in advance by the Contractor. This Article shall not apply to costs for routine contract
846 administration

847 WATER CONSERVATION

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

864 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of

865 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement
866 the Best Management Practices identified by the time frames issued by the California Urban Water
867 Conservation Council for such M&I Water unless any such practice is determined by the Contracting
868 Officer to be inappropriate for the Contractor.

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

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

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

880 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

887 Reclamation law.

888 OPERATION AND MAINTENANCE BY SAN LUIS & DELTA-MENDOTA WATER
889 AUTHORITY

890 28. (a) The O&M of a portion of the Project facilities which serve the Contractor, and
891 responsibility for funding a portion of the costs of such O&M, have been transferred to the San Luis
892 & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement (8-07-
893 20-X0354) between the United States and the Operating Non-Federal Entity San Luis & Delta-
894 Mendota Water Authority. That separate agreement shall not interfere with or affect the rights or
895 obligations of the Contractor or the United States hereunder.

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

910 United States in accordance with the separate agreement identified in subdivision (a) of this Article.

911 (c) For so long as the O&M of any portion of the Project facilities serving the
912 Contractor is performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water
913 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the
914 Rates for Water Delivered under this Contract representing the cost associated with the activity being
915 performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, or its
916 successor.

917 (d) In the event the O&M of the Project facilities operated and maintained by the
918 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by the
919 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,
920 in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the
921 Rates to be paid by the Contractor for Project Water under this Contract representing the O&M costs
922 of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter,
923 in the absence of written notification from the Contracting Officer to the contrary, pay the Rates and
924 Charges specified in the revised Exhibit "B" directly to the United States in compliance with Article
925 7 of this Contract.

926 OPERATION AND MAINTENANCE BY
927 CALIFORNIA DEPARTMENT OF WATER RESOURCES

928 28.1 (a) The O&M of a portion of the Project facilities which serve the Contractor, and
929 responsibility for funding a portion of the costs of such O&M, have been transferred to the California
930 Department of Water Resources, an Operating Non-Federal Entity by a separate agreement (14-06-
931 200-9755) between the United States and Operating Non-Federal Entity California Department of
932 Water Resources. This separate agreement shall not interfere with or affect the rights or obligations

933 of the Contractor or the United States hereunder.

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

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

955 successor.

956 (d) In the event the O&M of the Project facilities operated and maintained by
957 Operating Non-Federal Entity California Department of Water Resources is re-assumed by the
958 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,
959 in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the
960 Rates and Charges, to be paid by the Contractor for Project Water under this Contract representing
961 the O&M costs of the portion of such Project facilities which have been re-assumed. The Contractor
962 shall, thereafter, in the absence of written notification from the Contracting Officer to the contrary,
963 pay the Rates and Charges specified in the revised Exhibit "B" directly to the United States in
964 compliance with Article 7 of this Contract.

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OPERATION AND MAINTENANCE BY WESTLANDS WATER DISTRICT

967 28.2 (a) The O&M of a portion of the Project facilities which serve the
968 Contractor, and responsibility for funding a portion of the costs of such O&M, have been transferred
969 to the Westlands Water District, the Operating Non-Federal Entity Westlands Water District by a
970 separate contract (14-06-200-2020A) between the United States and Westlands Water District, the
971 Operating Non-Federal Entity Westlands Water District. That above-referenced contract shall not
972 interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

973 (b) The Contracting Officer has previously notified the Contractor in writing that
974 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the
975 Operating Non-Federal Entity Westlands Water District. Therefore, the Contractor has entered into a
976 separate agreement with the Operating Non-Federal Entity Westlands Water District providing the
977 terms and conditions pursuant to which the Operating Non-Federal Entity Westlands Water District

978 will deliver Project Water to the Contractor through the portion of the Project facilities operated and
979 maintained by the Operating Non-Federal Entity Westlands Water District, including the amount(s)
980 the Contractor is to pay the Operating Non-Federal Entity Westlands Water District for that service.
981 The Contractor shall pay directly to the Operating Non-Federal Entity Westlands Water District, or to
982 any successor approved by the Contracting Officer, all rates, charges, or assessments of any kind,
983 including any assessment for reserve funds, described in the separate agreement referred to above or
984 any amendatory or replacement agreement approved by the Contracting Officer, which the Operating
985 Non-Federal Entity Westlands Water District and or such successor determines, sets, or establishes
986 for the Operating Non-Federal Entity Westlands Water District or such successor. Such direct
987 payments to the Operating Non-Federal Entity Westlands Water District or such successor shall not
988 relieve the Contractor of its obligation to pay directly to the United States the Contractor's share of
989 the Project Rates and Charges referred to in this Contract.

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

995 (d) In the event the O&M of the Project facilities operated and maintained by the
996 Operating Non-Federal Entity Westlands Water District is re-assumed by the United States during the
997 term of this Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to
998 the Contractor a revised Exhibit "B" which shall include the portion of the Rates and Charges to be
999 paid by the Contractor for Project Water under this Contract representing the O&M costs of the

1000 portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the
1001 absence of written notification from the Contracting Officer to the contrary, pay the Rates and
1002 Charges specified in the revised Exhibit "B" directly to the United States in compliance with Article 7
1003 of this Contract.

1004 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1005 29. The expenditure or advance of any money or the performance of any obligation of the
1006 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1007 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1008 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1009 or allotted.

1010 BOOKS, RECORDS, AND REPORTS

1012 30. (a) The Contractor shall establish and maintain accounts and other books and
1013 records pertaining to administration of the terms and conditions of this Contract including: the
1014 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
1015 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other
1016 matters that the Contracting Officer may require. Reports thereon shall be furnished to the
1017 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
1018 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right
1019 during office hours to examine and make copies of the other party's books and records relating to
1020 matters covered by this Contract.

1021 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,
1022 records, or other information shall be requested from the Contractor by the Contracting Officer unless
1023 such books, records, or information are reasonably related to the administration or performance of
1024 this Contract. Any such request shall allow the Contractor a reasonable period of time within which
1025 to provide the requested books, records, or information.

1026 (c) At such time as the Contractor provides information to the Contracting Officer
1027 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the
1028 Operating Non-Federal Entity(ies).

1029 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1030 31. (a) The provisions of this Contract shall apply to and bind the successors and
1031 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1032 therein shall be valid until approved in writing by the Contracting Officer.

1033 (b) The assignment of any right or interest in this Contract by either party shall not
1034 interfere with the rights or obligations of the other party to this Contract absent the written
1035 concurrence of said other party.

1036 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1037 of any proposed assignment.

1038 SEVERABILITY

1039 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1040 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
1041 association or other form of organization whose primary function is to represent parties to Project
1042 contracts, brings an action in a court of competent jurisdiction challenging the legality or
1043 enforceability of a provision included in this Contract and said person, entity, association, or
1044 organization obtains a final court decision holding that such provision is legally invalid or
1045 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
1046 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court
1047 decision identify by mutual agreement the provisions in this Contract which must be revised and (ii)
1048 within three months thereafter promptly agree on the appropriate revision(s). The time periods
1049 specified above may be extended by mutual agreement of the parties. Pending the completion of the
1050 actions designated above, to the extent it can do so without violating any applicable provisions of
1051 law, the United States shall continue to make the quantities of Project Water specified in this

1052 Contract available to the Contractor pursuant to the provisions of this Contract which were not found
1053 to be legally invalid or unenforceable in the final court decision.

1054 RESOLUTION OF DISPUTES

1055 33. Should any dispute arise concerning any provisions of this Contract, or the
1056 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve
1057 the dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer
1058 referring any matter to Department of Justice, the party shall provide to the other party 30 days'
1059 written notice of the intent to take such action; Provided, That such notice shall not be required where
1060 a delay in commencing an action would prejudice the interests of the party that intends to file suit.
1061 During the 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in
1062 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
1063 waive or abridge any right or remedy that the Contractor or the United States may have.

1064 OFFICIALS NOT TO BENEFIT

1065
1066 34. No Member of or Delegate to Congress, Resident Commissioner, or official of
1067 the Contractor shall benefit from this Contract other than as a water user or landowner in the same
1068 manner as other water users or landowners.

1069 CHANGES IN CONTRACTOR'S SERVICE AREA

1070 35. (a) While this Contract is in effect, no change may be made in the Contractor's
1071 Service Area by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
1072 except upon the Contracting Officer's written consent.

1073 (b) Within 30 days of receipt of a request for such a change, the Contracting
1074 Officer will notify the Contractor of any additional information required by the Contracting Officer
1075 for processing said request, and both parties will meet to establish a mutually agreeable schedule for
1076 timely completion of the process. Such process will analyze whether the proposed change is likely

1077 to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of
1078 the Contractor to pay for Project Water furnished under this Contract or to pay for any
1079 Federally-constructed facilities for which the Contractor is responsible; and (iii) have an impact on
1080 any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall
1081 comply with the NEPA and the ESA. The Contractor will be responsible for all costs incurred by the
1082 Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of this
1083 Contract.

1084 FEDERAL LAWS

1085 36. By entering into this Contract, the Contractor does not waive its rights to contest the
1086 validity or application in connection with the performance of the terms and conditions of this
1087 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
1088 terms and conditions of this Contract unless and until relief from application of such Federal law or
1089 regulation to the implementing provision of the Contract is granted by a court of competent
1090 jurisdiction.

1091 NOTICES

1093 37. Any notice, demand, or request authorized or required by this Contract shall be
1094 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1095 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 97321,
1096 and on behalf of the United States, when mailed, postage prepaid, or delivered to the California
1097 Department of Fish and Game, Office of General Council, 1416 Ninth Street, 12th Floor,
1098 Sacramento, California 95814. The designation of the addressee or the address may be changed by
1099 notice given in the same manner as provided in this Article for other notices.

1100 IN WITNESS WHEREOF, the parties hereto have executed this Interim Renewal Contract as
1101 of the day and year first above written.

1102
1103

THE UNITED STATES OF AMERICA

1104
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By: _____
Regional Director, Mid-Pacific Region
Bureau of Reclamation

1107 (SEAL)

1108

Approved as to form:

1109
1110

CALIFORNIA DEPARTMENT OF FISH &
GAME

1111
1112

By: _____
Director

EXHIBIT A

[Map or Description of Service Area]

DRAFT

EXHIBIT B
2009 Water Rates and Charges

DRAFT