

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

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES,
THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF CALIFORNIA,
AND
KERN-TULARE WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	1
	Explanatory Recitals	2
1	Definitions	4
2	Term of Contract--Right to Use of Water	8
3	Water to Be Made Available and Delivered to the Contractor	11
4	Time for Delivery of Water	14
5	Point of Diversion and Responsibility for Distribution of Water	15
6	Measurement of Water Within the District	20
7	Rates and Method of Payment to the United States for Water	21
8	Rate and Method of Payment for Conveyance and Other Services by DWR ...	24
9	Transfers or Exchanges of Water	27
10	Application of Payments and Adjustments	27
11	Temporary Reductions--Return Flows	28
12	Water Shortage and Apportionment	29
13	Unavoidable Groundwater Percolation	31
14	Compliance with Federal Reclamation Law	31
15	Water and Air Pollution Control	31
16	Quality of Water	31
17	Water Acquired by the Contractor Other than from the United States	32
18	Opinions and Determinations	33
19	United States Charges for Delinquent Payments	33
20	Equal Opportunity	34
21	General Obligation--Benefits Conditioned upon Payment	35
22	Compliance with Civil Rights Laws	36
23	Privacy Act Compliance	37
24	Contractor to Pay Certain Miscellaneous Costs	37
25	Water Conservation	38

27	Operation and Maintenance by Non-Federal Entity	39
28	Contingent on Appropriation or Allotment of Funds	40
29	Books, Records, and Reports	40
30	Assignment Limited--Successors and Assigns Obligated	40
31	Severability	40
32	Officials Not to Benefit	41
33	Changes in Contractor's Boundaries	41
34	Notices	41
	Signature Page	42
	Exhibit A	
	Exhibit B	

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

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES,
THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF CALIFORNIA,
AND
KERN-TULARE WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE

1 THIS CONTRACT, made this 6th day of March 2001, in pursuance generally
2 of the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory or supplementary thereto, including,
3 but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August
4 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963
5 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), as amended, and Title XXXIV of the Act of October
6 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as the Federal Reclamation law, and
7 pursuant to the California Central Valley Project Act [Part 3, Division 6 (commencing at Section
8 11100) of the California Water Code] and the California Water Resources Development Bond Act
9 [Chapter 8, Part 6, Division 6 (commencing at Section 12930) of the California Water Code,] and
10 all acts of the California legislature amendatory thereto or supplementary thereof between THE
11 UNITED STATES OF AMERICA, hereinafter referred to as the United States, THE
12 DEPARTMENT OF WATER RESOURCES OF THE STATE OF CALIFORNIA, hereinafter
13 referred to as DWR, and KERN-TULARE WATER DISTRICT, hereinafter referred to as the
14 Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant
15 to the laws thereof, with its principal place of business in Bakersfield, California;

16 WITNESSETH, That:

1 which is hereinafter referred to as the Existing Interim Renewal Contract, which provided for the
2 continued water service to the Contractor from December 1, 2000, through February 28, 2001; and

3 WHEREAS, the Contractor has requested a subsequent interim renewal contract
4 pursuant to the Existing Interim Renewal Contract, Federal Reclamation law and the laws of the
5 State of California, for water service from the Central Valley Project; and

6 WHEREAS, the United States has determined that the Contractor has to date fulfilled
7 all of its obligations under the Existing Interim Renewal Contract; and

8 WHEREAS, the Contracting Officer has determined that the Contractor has the
9 capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable and
10 beneficial use for, the quantity of Project Water to be made available to it pursuant to this interim
11 renewal contract; and

12 WHEREAS, rights of renewal of 14-06-200-8601A are set forth in said contract; and

13 WHEREAS, Section 3404 of the CVPIA precludes long-term renewal of water
14 service contracts until the completion of appropriate environmental documentation, including a
15 programmatic environmental impact statement ("PEIS") pursuant to the National Environmental
16 Policy Act analyzing the direct and indirect impacts and benefits of implementing the CVPIA and
17 the potential renewal of all existing contracts for Project Water; and

18 WHEREAS, in order to continue water service provided under Project Water service
19 contracts that expire prior to the completion of the PEIS, the United States intends to execute interim
20 renewal contracts for a period not to exceed three (3) Years in length, and for successive interim
21 periods of not more than two (2) Years in length, until appropriate environmental documentation,
22 including the PEIS, is finally completed, at which time the Secretary shall, pursuant to Federal
23 Reclamation law, upon request of the Contractor, enter into a long-term renewal contract for a period
24 of twenty-five (25) Years; and may thereafter renew such long-term renewal contracts for successive

1 periods not to exceed twenty-five (25) Years each; and

2 WHEREAS, the Secretary intends to assure uninterrupted water service and
3 continuity of contract through the process set forth in Article 2 hereof; and

4 WHEREAS, the United States is willing to renew the Existing Interim Renewal
5 Contract pursuant to Section 3404(c)(1) of the CVPIA on the terms and conditions set forth below;

6 WHEREAS, the United States and the Contractor desire to contract with DWR for
7 conveyance of Project Water through the facilities of the SWP as aforesaid under an arrangement
8 wherein the United States will furnish the necessary power for pumping such water through DWR's
9 Delta Pumping Plant and Dos Amigos Pumping Plant; and

10 WHEREAS, DWR is willing to convey such water through State Facilities subject
11 to the availability of transportation capacity and payment of costs as herein provided.

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

14 DEFINITIONS

15 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible
16 with the intent hereof, the term:

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

19 (b) "Charges" shall mean the payments in addition to the Rates determined
20 annually by the Contracting Officer, required by the Federal Reclamation law, including
21 Section 3407 of the CVPIA;

22 (c) "Contracting Officer" shall mean the duly authorized representative of the
23 Secretary of the United States Department of the Interior;

24 (d) "Cross Valley Canal" shall mean the water conveyance and related works

1 constructed by the Contractor and others to deliver water from the State Facilities, which
2 canal currently is operated by KCWA;

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

5 (f) "Delivered Water" shall mean Project Water made available to the Contractor
6 and diverted at the point(s) of delivery approved by the Contracting Officer;

7 (g) "Eligible Lands" shall mean all lands to which Irrigation Water may be
8 delivered in accordance with Section 204 of the Reclamation Reform Act of 1982 (43 U.S.C.
9 390aa, et seq.), as amended, hereinafter referred to as RRA;

10 (h) "Entitlement Water" shall mean the amount of SWP Water made available
11 to a SWP Contractor during the respective year, as shown in Table A of their contract with
12 DWR, or as it may be amended;

13 (i) "Excess Lands" shall mean all lands defined as excess in Section 204 of the
14 RRA, other than those lands exempt from acreage limitation under Federal Reclamation law;

15 (j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3)
16 or 202(3) of the RRA, whichever is applicable;

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

19 (l) "Irrigation Water" shall mean Project Water which is used primarily in the
20 production of agricultural crops or livestock, including domestic use incidental thereto, and
21 watering of livestock;

22 (m) "KCWA" shall mean the Kern County Water Agency;

23 (n) "Landholder" shall mean an individual or entity attributed with the total
24 irrigable acreage of one or more tracts of land situated in one or more districts owned and/or

1 operated under a lease which is served with Irrigation Water pursuant to a contract with the
2 United States;

3 (o) "M&I Water" shall mean water made available from the Project other than
4 Irrigation Water. M&I Water shall include water used for purposes such as the watering of
5 landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or
6 water delivered to landholdings operated in units of less than five (5) acres unless the
7 Contractor establishes to the satisfaction of the Contracting Officer that the use of water
8 delivered to any such landholding is a use described in subdivision (l) of this Article;

9 (p) "Minimum OMP&R Costs" shall mean those OMP&R costs incurred by
10 DWR irrespective of the amount of water delivered to the Contractor;

11 (q) "OMP&R Costs" shall mean the costs incurred by DWR for operation,
12 maintenance, power and replacement of all State Facilities used in conveying Project Water
13 to the Contractor;

14 (r) "O&M" shall mean normal and reasonable care, control, operation, repair,
15 replacement and maintenance of Project facilities;

16 (s) "Operating Non-Federal Entity" shall mean a Non-Federal entity which has
17 the obligation to operate and maintain all or a portion of the Project facilities pursuant to an
18 agreement with the United States;

19 (t) "Operations Manual" shall mean the manual setting forth detailed operations
20 and management procedures prepared by DWR, the Contracting Officer and the Contractor;

21 (u) "Project" shall mean the Central Valley Project owned by the United States
22 and operated by the Department of the Interior, Bureau of Reclamation;

23 (v) "Project Water" shall mean all water that is developed, diverted, stored, or
24 delivered by the United States in accordance with the statutes authorizing the Project and in

1 accordance with the terms and conditions of applicable water rights permits and licenses
2 acquired by and/or issued to the United States pursuant to California law;

3 (w) "Rates" shall mean the payments determined annually by the Contracting
4 Officer in accordance with the then current applicable water ratesetting policies for the
5 Project;

6 (x) "Section 215 Water" shall mean a supply of Irrigation Water made available
7 to the Contractor pursuant to Section 215 of the RRA;

8 (y) "Secretary" shall mean the Secretary of the United States Department of the
9 Interior;

10 (z) "State Facilities" shall mean that portion of the SWP (including DWR's
11 portion of joint facilities), necessary to convey Project Water from the Sacramento-San
12 Joaquin Delta (Delta) to the Cross Valley Canal;

13 (aa) "SWP Contractor" shall mean any entity contracting with DWR for a portion
14 of the minimum project yield of the SWP;

15 (bb) "SWP" shall mean the California State Water Project;

16 (cc) "SWP Water" shall mean water made available through SWP operations
17 including conservation, purchase, and diversion under water rights of DWR;

18 (dd) "Variable OM&R Costs" shall mean those costs incurred by DWR for
19 operation, maintenance and replacement costs of State Facilities which are dependant upon
20 and vary with the amount of water delivered; and

21 (ee) "Year" shall mean the period from and including March 1 of each Calendar
22 Year through the last day of February of the following Calendar Year.

1 agree that this interim renewal contract preserves the rights and positions of the parties and that the
2 omission of language in this interim renewal contract setting out the rights asserted by the Contractor
3 to successive renewals is not intended to be, nor shall it be interpreted as, a waiver of any such rights
4 to the extent any such rights are later determined to exist by a court of competent jurisdiction or by
5 mutual agreement of the parties. If a court of competent jurisdiction or the parties by mutual
6 agreement determine that incorporation of such language in this interim renewal contract is necessary
7 to preserve such rights, this interim renewal contract shall be construed as incorporating such
8 language as though fully set forth herein as of the effective date hereof.

9 (b) The parties anticipate that they will engage in good faith negotiations intended
10 to permit the execution of a twenty-five (25) Year long-term renewal contract contemplated by
11 Section 3404 (c) of the CVPIA, hereinafter referred to as a “long-term renewal contract”, by the end
12 of the term hereof. The parties recognize the possibility that this schedule may not be met.
13 Accordingly:

14 (1) In the event (i) the Contractor and Contracting Officer have reached
15 agreement on the terms of the Contractor’s long-term renewal contract or (ii) the Contractor and
16 Contracting Officer have not completed the negotiations on the Contractor’s long-term renewal
17 contract, believe that further negotiations on that contract would be beneficial, and mutually commit
18 to continue to negotiate to seek to reach agreement, but (iii) all environmental documentation
19 required to allow execution of the Contractor’s long-term renewal contract by both parties has not
20 been completed in time to allow execution of the Contractor’s long-term renewal contract by
21 November 30, 2001, then (iv) the parties will expeditiously complete the environmental
22 documentation required of each of them in order to execute the Contractor’s long-term renewal
23 contract at the earliest practicable date. In addition, the Contractor’s then current interim renewal
24 contract will be renewed without change upon the request of either party through the agreed-upon

1 effective date of the Contractor's long-term renewal contract or, in the absence of agreement on the
2 terms of the Contractor's long-term renewal contract, through the succeeding February 28.

3 (2) Provided that this interim renewal contract is not subject to renewal
4 under the terms described in subdivision (1) of this Article, if a party determines that the parties have
5 reached an impasse which they have been unable to resolve and which precludes agreement on the
6 long-term renewal contract, that party may notify the other that it has concluded that there is no
7 reasonable likelihood of reaching agreement on the terms of a long-term renewal contract. In the
8 event of such notice, the parties will immediately agree to a schedule and process for negotiating the
9 terms (other than any terms that would impair continuity of water supply or continuity of contract)
10 of and executing an interim renewal contract; provided that neither party will propose for inclusion
11 in the interim renewal contract any provision not previously included in an existing interim renewal
12 contract which it had previously proposed for inclusion in the long-term renewal contract and which
13 was the subject of an impasse in the long-term renewal contract negotiations. The schedule will
14 provide for completion of the negotiations of the terms of that contract by February 1, 2002, and for
15 execution of the contract on or about February 15, 2002. The parties each acknowledge the right of
16 either party to seek judicial relief in connection with any impasse reached in connection with
17 negotiation of the long-term renewal contract and/or an interim renewal contract that would become
18 effective on or after February 28, 2002.

19 (c) The parties acknowledge that the Contractor asserts that it is entitled as a
20 matter of law to an interim renewal contract of longer duration than twelve (12) months, and that the
21 Contracting Officer asserts that it is under no obligation to provide the Contractor with an interim
22 renewal contract of any particular duration. Accordingly, the parties further acknowledge that (i) the
23 foregoing process represents a mutual accommodation to facilitate their joint desire to proceed with
24 the development of a long-term renewal contract in an expeditious and orderly manner, (ii) they each

1 preserve their respective rights and positions relative to the entitlement of the Contractor to
2 subsequent interim renewal contracts should they become necessary, and the terms thereof, and (iii)
3 their agreement to the process and interim renewal contract terms described above is in no way
4 intended to be, nor will it be interpreted as, a waiver of any such rights or positions, all of which are
5 and will be expressly preserved.

6 (d) DWR shall negotiate in good faith with the Contractor and the United States
7 in the process described in (a), (b), and (c) of this Article: Provided, That no such interim renewal
8 contract or long-term renewal contract shall obligate DWR to provide conveyance and/or storage
9 beyond February 28, 2035 without further negotiations. The parties acknowledge that operation of
10 State Facilities is not, and shall not be, subject to federal Reclamation law.

11 (e) The omission of language in this interim renewal contract providing for
12 conversion of this interim renewal contract or any subsequent renewals thereof to a repayment
13 contract, pursuant to the Act of July 2, 1956 (70 Stat. 483), shall not prejudice the Contractor's right
14 to assert a right to have such language included in subsequent renewals of this interim renewal
15 contract or to exercise such conversion, all as provided by law, or to negotiate the language regarding
16 such conversion to be included in subsequent renewal contracts.

17 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

18 3. (a) Subject to the provisions set forth in Articles 11 and 12 hereof, and consistent
19 with applicable State water rights, permits and licenses, the Contractor is entitled to, and the
20 Contracting Officer shall be obligated to make available to the Contractor from the Project up to
21 40,000 acre-feet of Project Water for irrigation and/or municipal and industrial purposes during the
22 term of this interim renewal contract. The quantity of Project Water delivered to the Contractor in
23 accordance with this Article 3(a) in any Year shall be scheduled, conveyed and paid for pursuant to

1 the provisions of this interim renewal contract, attached exhibits and the Operations Manual
2 (including any subsequent modifications thereto), and shall not exceed the quantity of Project Water
3 the Contractor intends to put to reasonable beneficial use within the Contractor's boundaries or sold,
4 transferred, or exchanged pursuant to Article 9 during the term of this interim renewal contract.

5 (b) The Contractor shall utilize the Project Water made available to it pursuant
6 to this interim renewal contract in accordance with all applicable requirements of any Biological
7 Opinion addressing the execution of this interim renewal contract developed pursuant to Section 7
8 of the Endangered Species Act of 1973 as amended, and in accordance with environmental
9 documentation as may be required for specific activities, including conversion of Irrigation Water
10 to M&I Water.

11 (c) The Contractor shall make reasonable and beneficial use of Project Water or
12 other water furnished pursuant to this interim renewal contract. Groundwater recharge which is
13 consistent with applicable State law shall be considered a reasonable and beneficial use of Project
14 Water permitted hereunder.

15 (d) Delivery of Project Water to the Contractor from the Friant Division pursuant
16 to Articles 3(e) and 5(c) shall be subject to the completion of the appropriate environmental
17 documentation to the extent such environmental documentation has not been previously completed.

18 (e) If the Contracting Officer determines that Project Water, or other water
19 available to the Project, can be made available to the Contractor in addition to the quantity of Project
20 Water made available to the Contractor pursuant to subdivision (a) of this Article, the Contracting
21 Officer shall so notify the Contractor. If the Contractor requests the delivery of any quantity of such
22 water, the Contracting Officer shall, subject to Article 3(d), make such water available to the
23 Contractor in accordance with applicable statutes, regulations, guidelines, and policies. If the

1 Contracting Officer determines that there is an unusually large water supply not otherwise storable
2 for Project purposes or infrequent and otherwise unmanaged flood flows of short duration from the
3 Friant Division, then Friant Division Project Water may be made available to the Contractor as
4 Section 215 Water if the Contractor enters into a temporary contract, not to exceed one (1) year, with
5 the United States for the delivery of such water or, as otherwise provided for in Federal Reclamation
6 law and associated regulations: Provided, That such water shall be first made available to the original
7 twenty-eight (28) long-term Friant Division contractors. Water in addition to the quantities
8 provided for in this interim renewal contract made available to the Contractor by the Contracting
9 Officer shall be scheduled, conveyed and/or stored by DWR only to the extent that DWR has
10 provided separate approval to do so.

11 (f) If the Contractor requests permission to reschedule for use during the
12 subsequent Year some or all of the Project Water made available to the Contractor during the current
13 Year or to use, during the current Year, that quantity of Project Water the United States has agreed
14 to make available to the Contractor during the subsequent Year, the Contracting Officer may permit
15 such uses in accordance with applicable statutes, regulations, guidelines and policies.

16 (g) The Contractor's right pursuant to Federal Reclamation law and applicable
17 State law to the beneficial use of water furnished pursuant to this interim renewal contract, any
18 subsequent interim renewal contract and, as described in Article 2(a), any long-term renewal
19 contract, shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this
20 interim renewal contract and any such renewal thereof. Nothing in the preceding sentence shall
21 affect the Contracting Officer's ability to impose shortages under Article 12(b) of this interim
22 renewal contract and the applicable provisions of any such renewal thereof.

23 (h) Notwithstanding subdivisions (l) and (o) of Article 1, Project Water furnished
24 to the Contractor pursuant to this interim renewal contract may be delivered for purposes other than

1 those described in subdivisions (l) and (o) of Article 1 upon written approval by the Contracting
2 Officer in accordance with the terms and conditions of such approval.

3 (i) Conveyance and/or storage of Project Water by DWR shall be subject to
4 capacity available in State Facilities in excess of capacity determined by DWR to be needed for all
5 SWP operations or any services to long-term SWP Contractors. Conveyance and/or storage for the
6 Contractor may be curtailed prior or subsequent to approval of the Contractor's schedule under
7 Article 4 hereof, in the event it interferes with the delivery of water to SWP Contractors or other
8 SWP operations necessary to meet long-term obligations of the SWP, including delivery of water
9 to SWP storage or reregulation of stored water for delivery to SWP Contractors.

10 (j) If in any year after DWR and the Contracting Officer have approved a
11 schedule or any revision thereof submitted in accordance within subdivision (a) and (b) of Article
12 4, and if the United States and/or DWR are unable to make water available in the quantities and at
13 the times requested in the schedule and the Contractor does not elect to receive and does not receive
14 such water at other times during such year, then the Contractor shall be entitled to an adjustment as
15 provided in Articles 7(c), 8(d), and 10.

16 TIME FOR DELIVERY OF WATER

17 4. (a) On or about February 15 of each Calendar Year, the Contracting Officer shall
18 declare the amount of Project Water estimated to be made available to the Contractor pursuant to this
19 interim renewal contract for the upcoming Year. The declaration will be updated monthly, as
20 necessary, based on current hydrologic conditions. The Contracting Officer shall make available the
21 forecast of Project operations, with relevant supporting information, upon the written request of the
22 Contractor or its representatives. Upon written request of the Contractor, the Contracting Officer
23 shall provide the basis of the estimate.

24 (b) On or before each March 1, the Contractor shall submit to the Contracting

1 Officer and at such other times as necessary, a written schedule, satisfactory to the Contracting
2 Officer, showing the times, and quantities of Project Water to be delivered by the United States to
3 the Contractor during the upcoming Year pursuant to this interim renewal contract, and, consistent
4 with subdivision (a) of Article 3 herein.

5 (c) Subject to the conditions set forth in subdivision (a), Article 3, the United
6 States and DWR shall deliver Project Water to the Contractor in accordance with the approved
7 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any approved
8 revision(s) thereto submitted within a reasonable time prior to the date(s) on which the requested
9 change(s) is/are to be implemented.

10 (d) Scheduling and delivery of Project Water to the Contractor shall be in
11 accordance with detailed procedures set forth in the Operations Manual as it may be amended from
12 time to time.

13 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

14 5. (a) The Project Water to be furnished to the Contractor by the Contracting Officer
15 pursuant to this interim renewal contract shall be made available to the Contractor at a point or
16 points of delivery mutually agreed to in writing by the Contracting Officer, DWR and the Contractor
17 either on Project and/or State Facilities or another location or locations. The parties acknowledge
18 that Project Water to be furnished to the Contractor pursuant to this interim renewal contract shall
19 be delivered to the Contractor by direct delivery via the Cross Valley Canal and/or by exchange
20 arrangements involving Arvin-Edison Water Storage District or others. The parties further
21 acknowledge that such exchange arrangements are not transfers subject to Section 3405(a) of
22 CVPIA. Notwithstanding Article 9, such exchange arrangements, other than the previously approved
23 exchange arrangements with Arvin-Edison Water Storage District, shall be submitted to the
24 Contracting Officer for approval in accordance with the same criteria historically applied by the

1 Contracting Officer or with the then existing Project-wide criteria. DWR shall have no obligation
2 to make such exchange arrangements or be responsible for water transported in facilities that are not
3 a part of the SWP.

4 (b) When Project Water is made available by the Contracting Officer at Clifton
5 Court Forebay, DWR shall provide to the Contractor, subject to the availability of capacity as
6 determined by DWR, conveyance from the Delta and storage in DWR's share of storage at San Luis
7 Reservoir, if necessary, of such Project Water consistent with the following provisions and the
8 Operations Manual;

9 (1) The United States shall deliver or cause to be delivered into the State's
10 Clifton Court Forebay, Project Water in such quantities and of such quality as shall be sufficient to
11 perform the United State's and DWR's obligation to furnish water to the Contractor as set forth in
12 this interim renewal contract. Such deliveries into Clifton Court Forebay shall be made at such times
13 and rates of flow as the Contracting Officer and DWR shall agree.

14 (2) DWR, in accordance with an approved Project Water delivery
15 schedule, shall convey the amount of water delivered into DWR's Clifton Court Forebay by the
16 Contracting Officer directly: (i) to the Cross Valley Canal turnout in Reach 12E of the California
17 Aqueduct or to other points of diversion mutually agreed to in writing by DWR and the Contractor,
18 or (ii) to DWR or federal share of storage in San Luis Reservoir for later release and delivery to the
19 Contractor or (iii) to replace water delivered to the Contractor from DWR's share of San Luis
20 Reservoir prior to DWR receiving Project Water from the United States, to the extent DWR
21 determines that capacity (and water in the event of an exchange) is available for such conveyance,
22 storage, or exchange (if any). Such deliveries of Project Water shall be required to be made in a
23 manner which will not increase the cost of or adversely affect SWP operations and the quantity or
24 quality of water deliveries to SWP Contractors.

1 (3) If DWR delivers water to the Contractor from DWR's share of storage
2 in San Luis Reservoir prior to the United States providing Project Water at DWR's Clifton Court
3 Forebay, the United States shall return a like amount of water to DWR pursuant to the procedures
4 set forth in the Operations Manual.

5 (4) The total amount of Project Water delivered at Clifton Court Forebay
6 to DWR by the United States shall include water to compensate DWR for water conveyance and
7 storage losses incurred in the delivery of Project Water to the Contractor. The amount of such
8 conveyance and storage losses will be determined pursuant to procedures set forth in the Operations
9 Manual.

10 (5) Project Water received by DWR at Clifton Court Forebay for
11 conveyance and/or storage for delivery to the Contractor will be commingled with waters of DWR
12 which are pumped through facilities of the California Aqueduct and with other waters of both the
13 United States and DWR in the joint use facilities of the San Luis Unit.

14 (6) Priorities for use of DWR's share of storage at San Luis Reservoir for
15 storage of Project Water shall be subject to all DWR obligations to the SWP operations and SWP
16 Contractors and to the criteria specified in the Operations Manual.

17 (7) Subject to the necessary arrangements, the United States shall transmit
18 or cause to be transmitted, by exchange or otherwise, such quantities of power as shall be required
19 by DWR to pump through its Delta Pumping Plant and its share of Dos Amigos Pumping Plant, the
20 quantities of Project Water transported into Clifton Court Forebay pursuant to (1) of this subsection.

21 (8) DWR shall furnish the Contracting Officer with such information as
22 the Contracting Officer and DWR agree is needed regarding the timing and quantities of power
23 required by DWR to pump Project Water. Such information shall be exchanged between the United
24 States and DWR in accordance with provisions set forth in the Operations Manual.

1 (9) The United States and DWR may, under terms and conditions
2 satisfactory to both, and in accordance with applicable law, exchange water and/or power necessary
3 for delivery of Project Water to the Contractor under terms of this interim renewal contract. Such
4 exchange shall be in accordance with the provisions set forth in the Operations Manual.

5 (c) To the extent that Friant Division Project Water exceeds Contract demand and
6 other Project purposes, as determined by the Contracting Officer, and if the Contractor so requests,
7 the Contracting Officer, subject to Article 3(d), shall make Project Water provided for in Article 3
8 (a) of this interim renewal contract available from such Friant Division supplies.

9 (d) Project Water may be provided by the Contracting Officer to the Contractor,
10 at the Contractor's request, through federal delta diversion and conveyance facilities and/or stored
11 in the federal share of storage at San Luis Reservoir for reregulation for later delivery to the
12 Contractor to the extent such diversion, conveyance and/or storage does not diminish the ability of
13 the Project to deliver Project Water to users in the Delta Division, San Luis Unit and San Felipe
14 Division service areas or to meet other legal obligations of the Project. The Contractor asserts that
15 it has rights to utilize Project facilities, including, but not limited to, those constructed pursuant to
16 the Act of June 3, 1960 (Public Law 86-488). The Contracting Officer disagrees with this assertion.
17 The parties agree that this interim renewal contract preserves the rights and positions of the parties
18 with respect to use of Project facilities arising pursuant to Contract No. 14-06-200-8292A, and the
19 inclusion or omission of language in this interim renewal contract is not intended to be, nor shall it
20 be interpreted as, a waiver of any such rights should they later be determined to exist by a court of
21 competent jurisdiction or by mutual agreement of the parties.

22 (e) Irrigation Water furnished to the Contractor pursuant to this interim renewal
23 contract shall be delivered by the Contractor in accordance with any applicable land classification
24 provisions of Federal Reclamation law and the associated regulations. Project Water shall not be

1 delivered to land outside the Contractor's boundaries unless approved in advance by the Contracting
2 Officer.

3 (f) All Project Water delivered to the Contractor pursuant to this interim renewal
4 contract shall be measured and recorded with equipment furnished, installed, operated and
5 maintained by the United States or the responsible Operating Non-Federal Entity or DWR at the
6 point or points of delivery established pursuant to subdivisions (a) and (b) of this Article. Upon the
7 request of any party to this interim renewal contract, the Contracting Officer or DWR shall
8 investigate the accuracy of such measurements and shall take any necessary steps to adjust any errors
9 appearing therein. The Contractor shall advise the Contracting Officer on or before the tenth (10th)
10 calendar day of each month of the quantity of M&I Water taken during the preceding month.

11 (g) Neither the United States nor any Operating Non-Federal Entity nor DWR
12 shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
13 made available to the Contractor pursuant to this interim renewal contract beyond the delivery points
14 specified in subdivisions (a) and (b) of this Article. The Contractor shall indemnify the United States
15 and DWR and their respective officers, employees, agents and assigns on account of damage or
16 claim of damage of any nature whatsoever for which there is legal responsibility, including property
17 damage, personal injury or death arising out of or connected with the control, carriage, handling, use,
18 disposal, or distribution of such Project Water beyond such delivery points, except for any damage
19 or claim arising out of (i) acts performed by the United States, DWR or any of their officers,
20 employees, agents or assigns, including any responsible Operating Non-Federal Entity, with the
21 intent of creating the situation resulting in any damage or claim, (ii) willful misconduct of the United
22 States or DWR or any of their officers, employees, agents, or assigns, including any responsible
23 Operating Non-Federal Entity, or (iii) negligence of the United States or DWR or any of their
24 officers, employees, agents or assigns including any responsible Operating Non-Federal Entity. In

1 the event any such claim or liability, referenced in this Article or otherwise arising from this
2 Agreement, is made against DWR, its officers or its employees, the Contractor agrees to defend,
3 indemnify and hold each of them harmless from such claim to the extent such claim does not arise
4 from an error or omission of DWR related to the control, carriage, handling, use, disposal, or
5 distribution of Project Water made available to the Contractor by the United States.

6 MEASUREMENT OF WATER WITHIN THE DISTRICT

7 6. (a) The Contractor shall ensure that, unless the Contractor has established an
8 alternative measurement program satisfactory to the Contracting Officer, all surface water delivered
9 for irrigation purposes within the Contractor's boundaries is measured at each agricultural turnout
10 and such water delivered for municipal and industrial purposes is measured at each municipal and
11 industrial service connection. All water measuring devices or water measuring methods of
12 comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be
13 responsible for installing, operating, and maintaining and repairing all such measuring devices and
14 implementing all such water measuring methods at no cost to the United States. The Contractor
15 shall use the information obtained from such water measuring devices or water measuring methods
16 to ensure proper management of the water; to bill water users for water delivered by the Contractor;
17 and, if applicable, to record water delivered for municipal and industrial purposes by customer class
18 as defined in its water conservation plan. Nothing herein contained, however, shall preclude the
19 Contractor from establishing and collecting any charges, assessments or other revenues authorized
20 by California law. The Contractor shall include a summary of its annual surface water deliveries in
21 the annual report described in Article 25(d).

22 (b) Omitted.

23 (c) All new surface water delivery systems installed within the Contractor's
24 boundaries after the effective date of this interim renewal contract shall also comply with the

1 measurement provisions described in subdivision (a) of this Article.

2 (d) The Contractor shall inform the Contracting Officer and DWR in writing by
3 April 30 of each Year of the monthly volume of surface water delivered within the Contractor's
4 boundaries during the previous Year.

5 RATES AND METHOD OF PAYMENT TO THE UNITED STATES FOR WATER

6 7. (a) The Contractor shall pay the United States in monthly payments as provided
7 in this Article for the quantities of Delivered Water furnished to the Contractor pursuant to this
8 interim renewal contract. Such payments shall consist of the applicable Rates and Charges
9 determined annually in accordance with applicable Federal law and associated regulations. The
10 Rates and Charges applicable upon execution of this interim renewal contract are set forth in Exhibit
11 "A."

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

14 (1) Prior to July 1, of each Calendar Year, the Contracting Officer shall
15 provide the Contractor the preliminary calculation of the Charges that will be applied for the period
16 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and
17 identify the statutes, regulations and guidelines used as the basis for such calculations. On or before
18 September 15, of each Calendar Year, the Contracting Officer shall notify the Contractor in writing
19 of the Charges to be in effect during the period October 1, of the current Calendar Year, through
20 September 30, of the following Calendar Year, and such notification shall revise Exhibit "A."

21 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall
22 make available to the Contractor an estimate of the Rates of payment for the following Year,
23 including Rates for use of applicable Project facilities, including but not limited to San Luis
24 Reservoir, and the computations and cost allocations upon which those Rates are based. The

1 Contractor shall be allowed not less than two (2) months to review and comment on such
2 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer
3 shall provide the Contractor with the final Rates to be in effect for the upcoming Year, and such
4 notification shall revise Exhibit "A."

5 (c) At the time the Contractor submits the initial schedule for the delivery of
6 Project Water for each Year pursuant to Article 4(b) of this interim renewal contract, the Contractor
7 shall pay the United States the total amount payable pursuant to the applicable Rate(s) for all Project
8 Water scheduled to be delivered pursuant to this interim renewal contract during the first two (2)
9 calendar months of the Year. Before the end of the first month or part thereof of the Year, and
10 before the end of each calendar month thereafter, the Contractor shall pay pursuant to the applicable
11 Rate(s) for all Project Water scheduled to be delivered pursuant to this interim renewal contract
12 during the second month immediately following. Adjustments between the payments for the
13 scheduled amount of Project Water and the appropriate payments for quantities of Delivered Water
14 furnished pursuant to this interim renewal contract each month shall be made before the end of the
15 following month: Provided, That any revised schedule submitted by the Contractor pursuant to
16 Article 4 which increases the amount of Project Water to be delivered pursuant to this interim
17 renewal contract during any month shall be accompanied with appropriate payment for Rates to
18 assure that Project Water is not furnished to the Contractor in advance of such payment. In any
19 month in which the quantity of Delivered Water furnished to the Contractor pursuant to this interim
20 renewal contract equals the quantity of Project Water scheduled and paid for by the Contractor, no
21 additional Project Water shall be made available to the Contractor unless and until payment of Rates
22 for such additional Project Water is made. Final adjustment between the payments of Rates for the
23 Project Water scheduled and the quantities of Delivered Water furnished during each Year pursuant
24 to its interim renewal contract shall be made as soon as possible but no later than April 30th of the

1 following Year.

2 (d) The Contractor shall pay all Charges owing for Delivered Water before the
3 end of the month following the month of delivery. Such amounts shall be consistent with the
4 quantities of Irrigation Water and M&I Water shown in the United States' water delivery report for
5 the subject month. The water delivery report shall be regarded by the Contractor as a bill for the
6 payment of appropriate Charges. Any monthly adjustment for overpayment or underpayment of
7 Charges shall be accomplished through the adjustment of Charges due to the United States in the
8 next month. By March 31, of each Year, the Contractor shall make any additional payment of
9 Charges it is obligated to make for Delivered Water furnished to the Contractor pursuant to its
10 interim renewal contract for the previous Year. The amount to be paid for past due payment of
11 Charges shall be computed pursuant to Article 19 of this interim renewal contract.

12 (e) The Contractor shall pay for any Project Water provided under Article 3(d)
13 or 3(e) as determined by the Contracting Officer pursuant to applicable statutes, regulations,
14 guidelines and policies.

15 (f) Payments to be made by the Contractor to the United States under this interim
16 renewal contract may be paid from any revenues available to the Contractor.

17 (g) Revenues received by the United States pursuant to this interim renewal
18 contract shall be allocated and applied in accordance with Federal Reclamation law, including but
19 not limited to, subsection 3 of Section 1 of the Act of July 2, 1956 (70 Stat. 483), and subsection (f)
20 of Section 3405, subsection (c)(1) of Section 3406 and subsection (d)(2)(A) of Section 3407 of the
21 CVPIA, and the associated regulations, including but not limited to, the Project Irrigation Water
22 ratesetting policy and the Project M&I Water ratesetting policy promulgated pursuant to the
23 Administrative Procedures Act.

24 (h) At the Contractor's request, the Contracting Officer shall provide to the

1 Contractor an accounting of all of the expenses allocated and the disposition of all revenues received
2 pursuant to this interim renewal contract in sufficient detail to allow the Contractor to determine that
3 the allocation of expenses and disposition of all revenues received was accomplished in conformance
4 with Federal Reclamation law and the associated regulations. The Contracting Officer and the
5 Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes arising
6 out of said accounting or the Contractor's review thereof.

7 (i) The parties acknowledge and agree that the efficient administration of this
8 interim renewal contract is their mutual goal. Recognizing that experience has demonstrated that
9 mechanisms, policies and procedures used for establishing Rates and Charges, and/or for making and
10 allocating payments, other than those set forth in this Article would be in the mutual best interest of
11 the parties, it is expressly agreed that the parties may enter into agreements for alternative
12 mechanisms, policies and procedures for any of those purposes while this interim renewal contract
13 is in effect without amending this interim renewal contract.

14 (j) The Contractor and the Contracting Officer concur that at the time of
15 execution of this interim renewal contract, the Contractor has no non-interest bearing operation and
16 maintenance deficits accruing from 14-06-200-8601A and shall have no further liability therefor.

17 RATE AND METHOD OF PAYMENT FOR CONVEYANCE
18 AND OTHER SERVICES BY DWR

19 8. (a) To the extent Project Water is conveyed through State Facilities, payment of
20 the costs of conveyance of water through the State Facilities shall be made by the Contractor directly
21 to DWR. The charges and interest rates applicable upon execution of this interim renewal contract
22 are set forth in Exhibit "B." DWR shall invoice the Contractor monthly for all conveyance charges
23 owing for the previous month. Payment by the Contractor to DWR shall be due thirty (30) days after
24 the date of the invoice. Any payment not received within thirty (30) days after the date of the invoice

1 shall be considered delinquent. Delinquent charges shall be calculated in accordance with Exhibit
2 "B" of this interim renewal contract: Provided, That no interest shall be charged to or be paid by the
3 Contractor unless such delinquency continues for more than thirty (30) days in total.

4 (b) DWR shall notify the Contractor of revision to the charges as follows:
5 Prior to October 1, of each Calendar Year, DWR shall notify the Contractor in writing of the charges
6 to be in effect during the following Calendar Year, and such notification shall revise Exhibit "B."
7 At the same time DWR shall provide to the Contractor a copy of the then most recent version of
8 Appendix B of DWR Bulletin 132, which is the basis for calculating the charges to the Contractor
9 to be in effect during that Calendar Year.

10 (c) DWR shall determine the charge per acre-foot for conveyance of water
11 through the SWP each year to revise Exhibit "B" hereto as follows:

12 (1) When DWR provides conveyance directly from the Delta or from the
13 federal share of storage at San Luis Reservoir, the unit conveyance charge shall equal the sum of the
14 following, as determined by DWR:

15 (i) The equivalent unit transportation capital and Minimum
16 OMP&R Costs for Reaches 1 through 12E, excluding Reach 3A, of the California Aqueduct;

17 (ii) The portion of the Delta Water Rate for Reaches 1, 2A, 2B and
18 3 of the California Aqueduct;

19 (iii) The replacement component of the transportation Variable
20 OM&R Costs for the Harvey O. Banks Delta Pumping Plant and DWR's share of the Dos Amigos
21 Pumping Plant;

22 (iv) A charge to offset direct fish losses associated with pumping
23 at the Banks Pumping Plant, pursuant to the December 30, 1986, agreement between the California
24 Department of Fish and Game and DWR; and

1 (v) The incremental costs, if any, caused by the conveyance and
2 delivery of Project Water to the Contractor which, unless included in the increased charges to the
3 Contractor, would result in increased charges to the SWP Contractors or increased costs to DWR.

4 (2) When DWR provides conveyance from the States' share of storage in
5 San Luis Reservoir, the unit charge shall equal the sum of the following as determined by DWR:

6 (i) The San Luis Facilities portion of the Delta Water Rate;

7 (ii) The net unit energy cost to replace water in San Luis Reservoir;

8 and

9 (iii) The sum of all unit charges provided under subdivision (c)(1)
10 of this Article.

11 (d) Should DWR deliver Project Water to San Luis Reservoir on behalf of the
12 Contractor and it is later determined by DWR that capacity to store such Project Water in DWR's
13 share of San Luis Reservoir is no longer available because of need for such storage to meet SWP
14 operations and obligations to SWP Contractors and the Contractor cannot take delivery of such
15 Project Water, DWR shall relieve the Contractor of its obligations to pay DWR for all such Project
16 Water so transported, stored, and no longer available to the Contractor. DWR shall reimburse the
17 Contractor for payments which have previously been made to DWR for any such conveyed and
18 stored supply, less the administrative charge described in (f).

19 (e) If the Contractor is unable, fails or refuses to accept delivery of Project Water
20 made available by DWR in accordance with this interim renewal contract, such inability, failure or
21 refusal shall not relieve the Contractor of its obligation to pay DWR all associated costs.

22 (f) The Contractor shall pay DWR a monthly administrative charge specified in
23 Exhibit "B" for each month in which DWR conveys Project Water to the Contractor and for each
24 month in which DWR invoices the Contractor for delinquent charges.

1 (c) In the event that the Contractor contests the accuracy of any statement
2 submitted to it by DWR pursuant to this interim renewal contract it shall give DWR notice thereof
3 at least ten (10) days prior to the day upon which payment of the stated amount is due. To the extent
4 that DWR finds that the Contractor's contentions regarding the statement are correct, it shall revise
5 the statement accordingly, and the Contractor shall make payment of the revised amounts on or
6 before the due date. To the extent that DWR does not find the Contractor's contentions to be correct,
7 or where time is not available for review of such contentions for correctness prior to due date, the
8 Contractor shall make payment of the stated amounts on or before the due date, but may make the
9 contested part of such payment under protest and seek to recover the amount thereof from DWR.

10 (d) If in any year, by reason of errors in computation or other causes, there is an
11 overpayment or underpayment to DWR by the Contractor of its charges provided for herein, the
12 amount of such overpayment or underpayment shall be credited or debited, as the case may be, to
13 the Contractor's account for the next succeeding year and DWR shall notify the Contractor thereof
14 in writing.

15 TEMPORARY REDUCTIONS--RETURN FLOWS

16 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the
17 SWP; and (ii) the obligations of the United States and DWR under existing contracts, or renewals
18 thereof, providing for water deliveries from the Project and the SWP, the Contracting Officer and
19 DWR shall make all reasonable efforts to optimize Project Water deliveries to the Contractor as
20 provided in this interim renewal contract.

21 (b) The United States or DWR may temporarily discontinue or reduce the quantity
22 of Project Water to be delivered to the Contractor as herein provided for the purposes of
23 investigation, inspection, maintenance, repair, or replacement of any of the Project or State Facilities
24 or any part thereof necessary for the delivery of Project Water to the Contractor, but so far as feasible

1 the Contracting Officer or DWR will give the Contractor due notice in advance of such temporary
2 discontinuance or reduction, except in case of emergency, in which case no notice need be given:
3 Provided, That the United States and DWR shall use their best efforts to avoid any discontinuance
4 or reduction in such service. Upon resumption of service after such reduction or discontinuance, and
5 if requested by the Contractor, the United States or DWR will, if capacity (and water in the event of
6 an exchange) is available, deliver the quantity of Project Water which would have been delivered
7 hereunder in the absence of such discontinuance or reduction, but only to the extent such delivery
8 can be made without adversely impacting SWP operations and deliveries to SWP contractors:
9 Provided, further, That with respect to any quantity of Project Water not delivered after a
10 discontinuance or reduction the Contractor shall be relieved of its scheduling and payment
11 obligations for such quantity of Project Water, except as to the administrative fee described in 8(f).

12 (c) The United States reserves the right to all seepage and return flow water
13 derived from water delivered to the Contractor hereunder which escapes or is discharged beyond the
14 Contractor's boundaries: Provided, That this shall not be construed as claiming for the United States
15 any right to seepage or return flow being put to reasonable and beneficial use pursuant to this interim
16 renewal contract within the Contractor's boundaries by the Contractor or those claiming by, through,
17 or under the Contractor.

18 WATER SHORTAGE AND APPORTIONMENT

19 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable
20 means to guard against a condition of shortage in the quantity of water to be made available to the
21 Contractor pursuant to this interim renewal contract. Insofar as determined by the Contracting
22 Officer to be practicable, the Contracting Officer will, in the event a shortage appears probable,
23 notify the Contractor of such determinations as soon as possible.

24 (b) If there is a reduction in the total water supply available to the Contractor

1 during any Year because of errors in physical operations of the Project, drought, or other physical
2 causes beyond the control of the Contracting Officer or actions taken by the Contracting Officer to
3 meet legal obligations, no liability shall accrue against the United States or any of its officers, agents,
4 or employees for any damage, direct or indirect, arising therefrom so long as actions based upon the
5 opinions or determinations of the Contracting Officer are consistent with the standards of Article 18.

6 (c) In any Year in which there may occur a shortage for any of the reasons
7 specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available
8 Project Water supply among the Contractor and others entitled, under existing contracts and future
9 contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section
10 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual
11 obligations of the United States.

12 (d) DWR shall make all reasonable efforts consistent with sound fiscal policies,
13 and proper operating procedures to maintain the necessary facilities and to deliver Project Water to
14 the Contractor in accordance with the provisions of this interim renewal contract in such a manner
15 and at such times as such Project Water is scheduled by the Contractor: Provided, That such Project
16 Water has been furnished to DWR by the United States: And Provided, further, That in no event
17 shall any liability accrue against DWR or any of its officers, agents or employees for damage, direct
18 or indirect for failure to deliver Project Water to the Contractor on account of errors in operation,
19 drought, or any other cause beyond the control of DWR. Inasmuch as DWR is providing only
20 conveyance and storage services under this agreement, it bears no responsibility for the availability
21 of Project Water for such conveyance.

22 (e) If any of the parties to this interim renewal contract are precluded in whole
23 or in part from delivering, conveying or receiving Project Water as a result of uncontrollable forces,
24 all parties shall be relieved from the obligation to the extent they are reasonably unable to complete

1 the obligation due to the uncontrollable force. Uncontrollable force shall include, but is not limited
 2 to, earthquakes, fires, tornados, floods and other natural disasters. Each party shall be responsible
 3 for payment of any costs incurred on its behalf by the other party(ies) before the occurrence of the
 4 uncontrollable force.

5 UNAVOIDABLE GROUNDWATER PERCOLATION

6 13. The Contractor shall not be deemed to have furnished Irrigation Water to Excess
 7 Lands or Ineligible Lands within the meaning of this interim renewal contract if such lands are
 8 irrigated with groundwater that reaches the underground strata as an unavoidable result of the
 9 furnishing of Irrigation Water by the Contractor to Eligible Lands.

10 COMPLIANCE WITH FEDERAL RECLAMATION LAW

11 14. This interim renewal contract shall be implemented in accordance with all applicable
 12 provisions of Federal Reclamation law, as amended and supplemented.

13 WATER AND AIR POLLUTION CONTROL

14
 15 15. The Contractor, in carrying out this interim renewal contract, shall comply with all
 16 applicable water and air pollution laws and regulations of the United States and the State of
 17 California, and shall obtain all required permits or licenses from the appropriate Federal, State, or
 18 local authorities.

19 QUALITY OF WATER

20 16. (a) Project and State Facilities used to make available and deliver Project Water
 21 to the Contractor pursuant to this interim renewal contract shall be operated and maintained to enable
 22 the United States and DWR to make available and deliver Project Water to the Contractor in
 23 accordance with the water quality standards specified in subsection 2(b) of the Act of August 26,
 24 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050) or
 25 other existing Federal laws. The United States and DWR are under no obligation to construct or
 26 furnish water treatment facilities to maintain or to better the quality of Project Water furnished to

1 the Contractor pursuant to this interim renewal contract. The United States and DWR do not warrant
2 the quality of Project Water made available and delivered to the Contractor pursuant to this interim
3 renewal contract.

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

10 This Article shall not affect or alter any legal obligations of the Secretary to provide drainage
11 services.

12 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN
13 FROM THE UNITED STATES

14 17. Water or water rights now owned or hereafter acquired by the Contractor other than
15 from the United States and Irrigation Water furnished pursuant to the terms of this interim renewal
16 contract may be simultaneously transported through the same distribution facilities of the Contractor
17 subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-
18 Project water were constructed without funds made available pursuant to Federal Reclamation law,
19 the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which
20 receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established
21 through the certification requirements as specified in the Acreage Limitation Rules and Regulations
22 (43 CFR Part 426); (iii) the water requirements of Eligible Lands within the Contractor's boundaries
23 can be established and the quantity of Irrigation Water to be utilized is less than or equal to the
24 quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for commingling

1 Irrigation Water and non-Project water are constructed with funds made available pursuant to Federal
 2 Reclamation law, the non-Project water will be subject to Federal Reclamation law, until such funds
 3 have been repaid. Prior written approval from DWR must be obtained by the Contractor prior to
 4 conveyance of such water in State Facilities.

5 OPINIONS AND DETERMINATIONS

6 18. (a) Where the terms of this interim renewal contract provide for actions to be
 7 based upon the opinion or determination of either party to this interim renewal contract, said terms
 8 shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or
 9 unreasonable opinions or determinations. Both parties, notwithstanding any other provisions of this
 10 interim renewal contract, expressly reserve the right to seek relief from and appropriate adjustment,
 11 including monetary damages, for any such arbitrary, capricious or unreasonable opinion or
 12 determination. Each opinion or determination by either party shall be provided in a timely manner.

13 (b) The Contracting Officer and DWR shall have the right to make determinations
 14 necessary to administer this interim renewal contract that are consistent with the expressed and
 15 implied provisions of this interim renewal contract, the laws of the United States and the State of
 16 California, and the rules and regulations promulgated by the Secretary and DWR. Such
 17 determinations shall be made in consultation with the Contractor to the extent reasonably practicable.

18 UNITED STATES CHARGES FOR DELINQUENT PAYMENTS

19
 20 19. (a) The Contractor shall be subject to interest, administrative and penalty charges
 21 on delinquent installments or payments. When a payment is not received by the due date, the
 22 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
 23 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
 24 charge to cover additional costs of billing and processing the delinquent payment. When a payment
 25 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
 26 percent (6%) per year for each day the payment is delinquent beyond the due date. Further, the
 27 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
 28 payment.

29
 30 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in

1 the Federal Register by the Department of the Treasury for application to overdue payments, or the
2 interest rate of one-half of one percent (0.5%) per month prescribed by Section 6 of the Reclamation
3 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due
4 date and remain fixed for the duration of the delinquent period.
5

6 (c) When a partial payment on a delinquent account is received, the amount
7 received shall be applied, first to the penalty, second to the administrative charges, third to the
8 accrued interest, and finally to the overdue payment.
9

10 EQUAL OPPORTUNITY

11
12 20. During the performance of this interim renewal contract, the Contractor agrees as
13 follows:

14 (1) The Contractor will not discriminate against any employee or applicant for
15 employment because of race, color, religion, sex, or national origin. The Contractor will take
16 affirmative action to ensure that applicants are employed, and that employees are treated during
17 employment, without regard to their race, color, religion, sex, or national origin. Such action shall
18 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;
19 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of
20 compensation; and selection for training, including apprenticeship. The Contractor agrees to post
21 in conspicuous places, available to employees and applicants for employment, notices to be provided
22 by the Contracting Officer setting forth the provisions of this nondiscrimination clause.
23

24 (2) The Contractor will, in all solicitations or advertisements for employees
25 placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration
26 for employment without discrimination because of race, color, religion, sex, or national origin.
27

28 (3) The Contractor will send to each labor union or representative of workers with
29 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
30 provided by the Contracting Officer, advising the said labor union or workers' representative of the
31 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
32 shall post copies of the notice in conspicuous places available to employees and applicants for
33 employment.
34

35 (4) The Contractor will comply with all provisions of Executive Order No. 11246
36 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the
37 Secretary of Labor.
38

39 (5) The Contractor will furnish all information and reports required by said
40 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or
41 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting
42 Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such
43 rules, regulations, and orders.
44

45 (6) In the event of the Contractor's noncompliance with the nondiscrimination
46 clauses of this interim renewal contract or with any of the said rules, regulations, or orders, this
47 interim renewal contract may be canceled, terminated, or suspended, in whole or in part, and the

1 Contractor may be declared ineligible for further Government contracts in accordance with
 2 procedures authorized in said amended Executive Order, and such other sanctions may be imposed
 3 and remedies invoked as provided in said Executive Order, or by rule, regulation, or order of the
 4 Secretary of Labor, or as otherwise provided by law.

5
 6 (7) The Contractor will include the provisions of paragraphs (1) through (7) in
 7 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
 8 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such
 9 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
 10 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
 11 means of enforcing such provisions, including sanctions for noncompliance: Provided, however,
 12 That in the event the Contractor becomes involved in, or is threatened with, litigation with a
 13 subcontractor or vendor as a result of such direction, the Contractor may request the United States
 14 to enter into such litigation to protect the interests of the United States.

15
 16 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

17
 18 21. (a) The obligation of the Contractor to pay the United States and DWR as
 19 provided in this interim renewal contract is a general obligation of the Contractor notwithstanding
 20 the manner in which the obligation may be distributed among the Contractor's water users and
 21 notwithstanding the default of individual water users in their obligations to the Contractor.

22 (b) If in any year the Contractor fails or is unable to raise sufficient funds by other
 23 means, the governing body of the Contractor shall levy upon all property within the Contractor's
 24 boundary not exempt from taxation, a special assessment sufficient to provide for all payments due
 25 the United States and DWR under this interim renewal contract.

26 (c) Assessments levied by the governing body of the Contractor pursuant to
 27 subdivision (b) of this article shall be enforced and collected by all officers of the Contractor charged
 28 with the duty of enforcing and collecting assessments levied by the Contractor.

29 (d) All money collected by way of special assessments under this article for
 30 payments due DWR shall be kept in a separate fund by the treasurer or other officer of the Contractor
 31 charged with the safekeeping and disbursement of funds of the Contractor, and, upon the written
 32 demand of DWR, the treasurer or other officer shall pay over to DWR all money in his possession
 33 or control then due DWR under this interim renewal contract, which money shall be applied by
 34 DWR to the satisfaction of the amount due under this interim renewal contract.

PRIVACY ACT COMPLIANCE

1
2
3 23. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)
4 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et
5 seq.) in maintaining landholder acreage certification and reporting records, required to be submitted
6 to the Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982
7 (96 Stat. 1266), and pursuant to 43 CFR 426.10.

8
9 (b) With respect to the application and administration of the criminal penalty
10 provisions of the Act (5 U.S.C. 552a(I)), the Contractor and the Contractor's employees responsible
11 for maintaining the certification and reporting records referenced in (a) of this Article are considered
12 to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

13
14 (c) The Contracting Officer or a designated representative shall provide the
15 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau
16 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--
17 Interior, Reclamation-31) which govern the maintenance, safeguarding, and disclosure of
18 information contained in the landholder's certification and reporting records.

19
20 (d) The Contracting Officer shall designate a full-time employee of the Bureau
21 of Reclamation to be the System Manager who shall be responsible for making decisions on denials
22 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor
23 is authorized to grant requests by individuals for access to their own records.

24
25 (e) The Contractor shall forward promptly to the System Manager each proposed
26 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR
27 2.71; notify the requester accordingly of such referral; and provide the System Manager with
28 information and records necessary to prepare an appropriate response to the requester. These
29 requirements do not apply to individuals seeking access to their own certification and reporting
30 forms filed with the Contractor pursuant to 43 CFR 426.10, unless the requester elects to cite the
31 Privacy Act as a basis for the request.

32 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

33 24. In addition to all other payments to be made by the Contractor pursuant to this interim
34 renewal contract, the Contractor shall pay to the United States, within sixty (60) days after receipt
35 of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such
36 specific items of direct cost incurred by the United States for work requested by the Contractor
37 associated with this interim renewal contract plus a percentage of such direct costs for administrative
38 and general overhead in accordance with applicable Bureau of Reclamation policy and procedures.
39 All such amounts referred to in this Article shall not exceed the amount agreed to in writing in

1 advance by the Contractor. This Article shall not apply to costs for routine contract administration.

2 WATER CONSERVATION

3 25. (a) Prior to the delivery of water provided from or conveyed through Federally
4 constructed or Federally financed facilities pursuant to this interim renewal contract, the Contractor
5 shall be implementing an effective water conservation program based on the Contractor's water
6 conservation plan that has been determined by the Contracting Officer to meet the conservation and
7 efficiency criteria established under Federal law. The water conservation program shall contain
8 definite water conservation objectives, appropriate economically feasible water conservation
9 measures, and time schedules for meeting those objectives.

10 (b) Should the combined amount of M&I Water delivered pursuant to subdivision
11 (a) of Article 3 during the term of this interim renewal contract equal or exceed 2,000 acre-feet , the
12 Contractor shall implement the Best Management Practices identified by and the time frames issued
13 by the California Urban Water Conservation Council unless any such practice is determined by the
14 Contracting Officer to be inappropriate for the Contractor.

15 (c) As part of the water conservation program, the Contractor shall develop and
16 be implementing a tiered block water pricing program that promotes conservation and the efficient
17 management of Project Water during the term of this contract. Such pricing program for Project
18 Water shall take into account all relevant circumstances, including without limitation, water
19 shortages imposed under this interim renewal contract and the availability and cost of the
20 Contractor's and individual water user's non-Project alternative sources of supply, including
21 groundwater and other non-Project water supplies, so that the Contractor's pricing structure provides
22 incentives for conservation and the efficient management of overall water supply available to water
23 users served by the Contractor. Provided, That no such tiered block water pricing program need be
24 implemented by the Contractor if the Contracting Officer determines, based on information provided

1 by the Contractor, that (i) such a pricing structure will not result in significant conservation of water
2 available for use within the Contractor's boundaries, including groundwater or (ii) other pricing
3 program, conservation or management measures are more appropriate and/or will result in
4 comparable or better conservation of the water supplies available within the Contractor's boundaries.
5 Provided further, If the Contractor fails to, or elects not to, comply with this subdivision of Article
6 25, then any subsequent interim renewal contract shall contain a tiered pricing contractual provision
7 pursuant to subsection (d) of Section 3405 of the CVPIA.

8 (d) The Contractor shall submit to the Contracting Officer by December 31, of
9 each Calendar Year, an annual report on the status of its implementation of the water conservation
10 program.

11 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

12 27. (a) The responsibility for performing and, in some cases funding the O&M of all
13 or any portion of the Project facilities may be transferred to an Operating Non-Federal Entity by one
14 or more separate agreements between the United States and the Operating Non-Federal Entity. Any
15 such separate agreement(s) require the Operating Non-Federal Entity to perform the O&M in
16 compliance with the provisions of this interim renewal contract and shall not interfere with the rights
17 or obligations of the Contractor or the United States hereunder.

18 (b) If so notified in writing by the Contracting Officer, the Contractor shall pay
19 directly to such Operating Non-Federal Entity, in accordance with such notice: (i) That portion of
20 the Rate(s) to be paid the United States pursuant to this interim renewal contract which the
21 Contracting Officer determines is the Contractor's appropriate share of the O&M of the Project
22 facilities maintained by and/or transferred to the Operating Non-Federal Entity, and (ii) All
23 appropriate additional amounts charged or assessed by the Operating Non-Federal Entity for the
24 O&M of Project facility. Such direct payments to such Operating Non-Federal Entity shall not

1 relieve the Contractor of its obligation to pay directly to the United States for its allocated share of
 2 remaining costs for the Project.

3 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

4
 5 28. The expenditure or advance of any money or the performance of any obligation of the
 6 United States under this interim renewal contract shall be contingent upon appropriation or allotment
 7 of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
 8 obligations under this interim renewal contract. No liability shall accrue to the United States in case
 9 funds are not appropriated or allotted.

10
 11 BOOKS, RECORDS, AND REPORTS

12
 13 29. The Contractor shall establish and maintain accounts and other books and records
 14 pertaining to administration of the terms and conditions of this interim renewal contract, including:
 15 the Contractor's financial transactions, water supply data, and Project land and right-of-way
 16 agreements; the water users' land-use (crop census), landownership, land-leasing and water use data;
 17 and other matters that the Contracting Officer may require. Reports thereon shall be furnished to the
 18 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
 19 Subject to applicable Federal laws and regulations, each party to this interim renewal contract shall
 20 have the right during office hours to examine and make copies of the other party's books and records
 21 relating to matters covered by this interim renewal contract.

22
 23 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

24
 25 30. (a) The provisions of this interim renewal contract shall apply to and bind the
 26 successors and assigns of the parties hereto, but no assignment or transfer of this interim renewal
 27 contract or any right or interest therein shall be valid until approved in writing by the Contracting
 28 Officer.

29
 30 (b) No assignment or transfer of any rights to use State Facilities authorized by
 31 this interim renewal contract shall be valid without advance written approval by DWR.

32 (c) The assignment of any right or interest in this interim renewal contract by a
 33 party shall not interfere with the rights or obligations of the other parties to this interim renewal
 34 contract absent the written concurrence of said other parties.

35 SEVERABILITY

36 31. In the event that a person or entity who is neither (i) a party to a Project interim
 37 renewal contract, nor (ii) a person or entity that receives Project Water from a party to a Project

1 interim renewal contract, nor (iii) an association or other form of organization whose primary
 2 function is to represent parties to Project interim renewal contracts, brings an action in a court of
 3 competent jurisdiction challenging the legality or enforceability of a provision included in this
 4 interim renewal contract and said person, entity, association, or organization obtains a final court
 5 decision holding that such provision is legally invalid or unenforceable and the Contractor has not
 6 intervened in that lawsuit in support of the plaintiff(s), the parties to this interim renewal contract
 7 shall use their best efforts to (i) within thirty (30) days of the date of such final court decision
 8 identify by mutual agreement the provisions in this interim renewal contract which must be revised,
 9 and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time
 10 periods specified above may be extended by mutual agreement of the parties. Pending the
 11 completion of the actions designated above, to the extent it can do so without violating any
 12 applicable provisions of law, the United States shall continue to make the quantities of Project Water
 13 specified in this interim renewal contract available to the Contractor pursuant to the provisions of
 14 this interim renewal contract which were not found to be legally invalid or unenforceable in the final
 15 court decision.

OFFICIALS NOT TO BENEFIT

16
 17
 18 32. No Member of or Delegate to Congress, Resident Commissioner or official of the
 19 Contractor shall benefit from this interim renewal contract other than as a water user or landowner
 20 in the same manner as other water users or landowners.
 21

CHANGES IN CONTRACTOR'S BOUNDARIES

22
 23
 24 33. While this interim renewal contract is in effect, no change may be made in the
 25 Contractor's boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger or
 26 otherwise, except upon the Contracting Officer's written consent.
 27

NOTICES

28
 29
 30 34. Any notice, demand, or request authorized or required by this interim renewal
 31 contract shall be deemed to have been given, on behalf of the parties, when mailed, postage prepaid,
 32 or delivered to the Area Manager, South-Central California Area Office, United States Bureau of

1 Reclamation, 2666 North Grove Industrial Drive, Fresno, California 93727-1551; the Board of
2 Directors, Kern-Tulare Water District, 1820 - 21st Street, Bakersfield, California 93301; and the
3 Chief, State Water Project Analysis Office, Department of Water Resources, P.O. Box 942836,
4 Sacramento, California 94236-0001. The designation of the addressee or the address may be
5 changed by notice given in the same manner as provided in this Article for other notices.

6 IN WITNESS WHEREOF, the parties hereto have executed this interim renewal contract as
7 of the day and year first above written.

8
9 THE UNITED STATES OF AMERICA

10
11
12 By: /s/ Kirk C. Rodgers
13 Acting Regional Director, Mid-Pacific Region
14 Bureau of Reclamation
15

16
17 Approved as to Legal Form and
18 Sufficiency:

19 THE DEPARTMENT OF WATER RESOURCES
20 OF THE STATE OF CALIFORNIA

21 By: /s/ David B. Anderson
22 For Chief Counsel,
23 Department of Water Resources
24

25 By: /s/ Thomas M. Hannigan
26 Director,
27 Department of Water Resources
28

29 (SEAL)

30 KERN-TULARE WATER DISTRICT

31 By: /s/ Kent H. Stephens
32 President of the Board of Directors
33

34 Attest:

35 By: /s/ John Zaninovich
36 Secretary of the Board of Directors
37

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY

/s/ James E. Turner

OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR