

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
THE CITY OF ROSEVILLE
PROVIDING FOR PROJECT WATER SERVICE
FROM THE AMERICAN RIVER DIVISION

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Exhibit A - Map of Contractor's Service Area

Exhibit B - Rates and Charges

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

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
6 AND
7 THE CITY OF ROSEVILLE
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM THE AMERICAN RIVER DIVISION

10 THIS CONTRACT, made this ____ day of _____, 20 ____, in pursuance
11 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,
12 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
13 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, June 21, 1963 (77
14 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended
15 November 5, 1990 (104 Stat. 2074) and Title XXXIV of the Act of October 30, 1992 (106 Stat.
16 4706), all collectively hereinafter referred to as Federal Reclamation law, between THE UNITED
17 STATES OF AMERICA, hereinafter referred to as the United States, and THE CITY OF
18 ROSEVILLE, hereinafter referred to as the Contractor, a public agency of the State of California,
19 duly organized, existing, and acting pursuant to the laws thereof,;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
23 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for flood

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

28 [2nd] WHEREAS, the United States constructed Folsom Dam and Reservoir, hereinafter
29 collectively referred to as the American River Division facilities, which will be used in part for the
30 furnishing of water to the Contractor pursuant to the terms of this Contract; and

31 [3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant
32 to California law for operation of the Project; and

33 [4th] WHEREAS, the Contractor and the United States entered into Contract
34 No. 14-06-200-3474A, dated September 9, 1967, hereinafter referred to as the Existing Contract,
35 which established terms for the delivery to the Contractor of Project Water from the American River
36 Division from January 1, 1971, through December 31, 2011; and

37 [5th] Omitted; and

38 [5.1] Omitted; and

39 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
40 Existing Contract following completion of appropriate environmental documentation, including a
41 programmatic environmental impact statement (PEIS) pursuant to the National Environmental Policy
42 Act (NEPA) analyzing the direct and indirect impacts and benefits of implementing the CVPIA and
43 the potential renewal of all existing contracts for Project Water; and

44 [6.1] WHEREAS, the Contracting Officer and the Contractor are entering into this Contract
45 pursuant to Subsection 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA); and

46 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
47 environmental review necessary to provide for long-term renewal of the Existing Contract; and

48 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
49 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the
50 State of California, for water service from the Project; and

51 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
52 its obligations under the Existing Contract; and

53 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
54 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
55 beneficial use and/or has demonstrated projected future demand for water use such that the
56 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the
57 quantity of Project Water to be made available to it pursuant to this Contract; and

58 [11th] WHEREAS, water obtained from the Project has been relied upon by urban areas
59 within California for more than 50 years, and is considered by the Contractor as an essential portion
60 of its water supply; and

61 [12th] WHEREAS, the economies of regions within the Project, including the Contractor's,
62 depend upon the continued availability of water, including water service from the Project; and

63 [12.1] WHEREAS, in the CALFED Programmatic Record of Decision, dated August 28,
64 2000, the United States and the State of California adopted a general target of continuously
65 improving Delta water quality for all uses. The CALFED Agencies' target for providing safe,
66 reliable, and affordable drinking water in a cost-effective way, is to achieve either: "(a) average
67 concentrations at Clifton Court Forebay and other southern and central Delta drinking water intakes
68 of 50 ug/L bromide and 3.0 mg/L total organic carbon, or (b) an equivalent level of public health
69 protection using a cost-effective combination of alternative source waters, source control and
70 treatment technologies;" and

71 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
72 to pursue measures to improve water supply, water quality, and reliability of the Project for all

73 Project purposes; and

74 [13.1] WHEREAS, the Contractor and the water users in its Service Area have improved and
75 will continue to improve water use efficiency through water conservation, water reclamation, and
76 other Best Management Practices; however, implementing these measures have reduced and continue
77 to reduce the ability of the Contractor and the water users in its Service Area to withstand a
78 Condition of Shortage; and

79 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
80 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment
81 of the Project as required by law; to guard reasonably against Project Water shortages; to achieve a
82 reasonable balance among competing demands for use of Project Water; and to comply with all
83 applicable environmental statutes, all consistent with the legal obligations of the United States
84 relative to the Project; and

85 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
86 relationship in order to achieve their mutual goals; and

87 [15.1] WHEREAS, the Contractor is a signatory to the Water Forum Agreement, dated
88 April_14, 2000, which has the co-equal objectives to (1) provide a reliable and safe water supply for
89 the Sacramento region's economic health and planned development through the year 2030, and (2)
90 preserve the fishery, wildlife, recreational and aesthetic values of the lower American River; and

91 [15.2] WHEREAS, the Contracting Officer is in support of the co-equal objectives of the
92 Water Forum Agreement and intends to work cooperatively with the Contractor to investigate actions
93 that they could take to implement the objectives of the Water Forum Agreement, which, if agreed to,
94 would be the subject of a separate agreement between them; and

95 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
96 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

97 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein

98 contained, it is hereby mutually agreed by the parties hereto as follows:

99 DEFINITIONS

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

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

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

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

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

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

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

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

121 (h-i) Omitted;

122 (j) "Full Cost Rate" shall mean an annual rate as determined by the Contracting

Deleted: ¶

123 Officer that shall amortize the expenditures for construction properly allocable to the Project
124 Irrigation or M&I functions, as appropriate, of facilities in service including all O&M deficits
125 funded, less payments, over such periods as may be required under Federal Reclamation law or
126 applicable contract provisions. Interest will accrue on both the construction expenditures and funded
127 O&M deficits from October 12, 1982, on costs outstanding at that date, or from the date incurred in
128 the case of costs arising subsequent to October 12, 1982, and shall be calculated in accordance with
129 subsections 202(3)(B) and (3)(C) of the RRA. The Full-Cost Rate includes actual operation,
130 maintenance, and replacement costs consistent with Section 426.2 of the Rules and Regulations for
131 the RRA;

132 (k-l) Omitted;

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

136 (n) Omitted;

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

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

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

148 (r) Omitted;

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

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

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

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

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

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

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

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

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

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

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

177 TERM OF CONTRACT

178 2. (a) This Contract shall be effective March 1, 2005, through February 28, 2045,
179 and supersedes the Existing Contract. In the event the Contractor wishes to renew this Contract
180 beyond February 28, 2045, the Contractor shall submit a request for renewal in writing to the
181 Contracting Officer no later than two years prior to the date this Contract expires.

182 (b) Omitted.

183 (c) This Contract shall be renewed for successive periods of up to 40 years each,
184 which periods shall be consistent with then-existing Reclamation-wide policy, under terms and
185 conditions mutually agreeable to the parties and consistent with Federal and State law. The
186 Contractor shall be afforded the opportunity to comment to the Contracting Officer on the proposed
187 adoption and application of any revised policy applicable to the delivery of M&I Water that would
188 limit the term of any subsequent renewal contract with the Contractor for the furnishing of M&I
189 Water to less than 40 years.

190 (d) The Contracting Officer shall make a determination ten years after the date of
191 execution of this Contract, and every five years thereafter during the term of this Contract, of whether
192 a conversion to a contract under subsection (c)(1) of Section 9 of the Reclamation Project Act of
193 1939 can be accomplished. The Contracting Officer anticipates that during the term of this Contract,
194 all authorized Project construction expected to occur will have occurred, and on that basis the

195 Contracting Officer upon such completion to allocate all costs that are properly assignable to the
196 Contractor, and agrees further that, at any time after such allocation is made, and subject to
197 satisfaction of the conditions set out in this subdivision of this Article, this Contract shall, at the
198 request of the Contractor, be converted to a contract under subsection (c)(1) of Section 9, of the
199 Reclamation Project Act of 1939, subject to applicable Federal law and under stated terms and
200 conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such
201 conversion to occur shall be a determination by the Contracting Officer that, account being taken of
202 the amount credited to return by the Contractor as provided for under Reclamation law, the remaining
203 amount of construction costs assignable for ultimate return by the Contractor can probably be repaid
204 to the United States within the term of a contract under subsection (c)(1) of Section 9. If the
205 remaining amount of costs that are properly assignable to the Contractor cannot be determined during
206 the term of this Contract, the Contracting Officer shall notify the Contractor, and provide the
207 reason(s) why such a determination could not be made. Further, the Contracting Officer shall make
208 such a determination as soon thereafter as possible so as to permit, upon request of the Contractor
209 and satisfaction of the conditions set out above, conversion to a contract under subsection (c)(1) of
210 Section 9. In the event such determination of costs has not been made at a time which allows
211 conversion of this Contract during the term of this Contract or the Contractor has not requested
212 conversion of this Contract within such term, the parties shall incorporate in any subsequent renewal
213 contract as described in subdivision (b) of this Article, a provision that carries forth in substantially
214 identical terms the provisions of this subdivision.

215 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

216 3. (a) During each Year, consistent with all applicable State water rights, permits,
217 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this
218 Contract, the Contracting Officer shall make available for delivery to the Contractor 32,000 acre-feet
219 of Project Water for M&I purposes. Water Delivered to the Contractor in accordance with this

220 subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of this
221 Contract.

222 (b) Because the capacity of the Project to deliver Project Water has been
223 constrained in recent years and may be constrained in the future due to many factors including
224 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor
225 actually receiving the amount of Project Water set out in subdivision (a) of this Article in any given
226 Year is uncertain. The Contracting Officer's modeling referenced in the PEIS projected that the
227 Contract Total set forth in this Contract will not be available to the Contractor in many years. During
228 the most recent five years, the Recent Historic Average of Water Made Available to the Contractor
229 was 31,040 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights and obligations
230 of the parties under any provision of this Contract.

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

233 (d) The Contractor shall make reasonable and beneficial use of all water furnished
234 pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu), groundwater
235 banking programs, surface water storage programs, and other similar programs utilizing Project
236 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service
237 Area which are consistent with applicable State law and result in use consistent with Federal
238 Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are) described in
239 the Contractor's water conservation plan submitted pursuant to Article 26 of this Contract; Provided,
240 further, That such water conservation plan demonstrates sufficient lawful uses exist in the
241 Contractor's Service Area so that using a long-term average, the quantity of Delivered Water is
242 demonstrated to be reasonable for such uses and in compliance with Federal Reclamation law.
243 Groundwater recharge programs, groundwater banking programs, surface water storage programs,
244 and other similar programs utilizing Project Water or other water furnished pursuant to this Contract

245 conducted outside the Contractor's Service Area may be permitted upon written approval of the
246 Contracting Officer, which approval will be based upon environmental documentation, Project Water
247 rights, and Project operational concerns. The Contracting Officer will address such concerns in
248 regulations, policies, or guidelines.

249 (e) The Contractor shall comply with requirements applicable to the Contractor in
250 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
251 undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended, that are
252 within the Contractor's legal authority to implement. The Existing Contract, which evidences in
253 excess of 30 years of diversions for M&I purposes of the quantities of water provided in subdivision
254 (a) of Article 3 of this Contract, will be considered in developing an appropriate baseline for the
255 biological assessment prepared pursuant to the ESA, and any other needed environmental review.
256 Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial
257 relief in a court of competent jurisdiction with respect to any biological opinion or other
258 environmental documentation referred to in this Article.

259 (f) Following the declaration of Water Made Available under Article 4 of this
260 Contract, the Contracting Officer will make a determination whether Project Water, or other water
261 available to the Project, can be made available to the Contractor in addition to the Contract Total
262 under Article 3 of this Contract during the Year without adversely impacting other Project
263 Contractors. At the request of the Contractor, the Contracting Officer will consult with the
264 Contractor prior to making such a determination. If the Contracting Officer determines that Project
265 Water, or other water available to the Project, can be made available to the Contractor, the
266 Contracting Officer will announce the availability of such water and shall so notify the Contractor as
267 soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project
268 Contractors capable of taking such water to determine the most equitable and efficient allocation of
269 such water. If the Contractor requests the delivery of any quantity of such water, the Contracting

270 Officer shall make such water available to the Contractor in accordance with applicable statutes,
271 regulations, guidelines, and policies.

272 (g) The Contractor may request permission to reschedule for use during the
273 subsequent Year some or all of the Water Made Available to the Contractor during the current Year
274 referred to as “carryover.” The Contractor may request permission to use during the current Year a
275 quantity of Project Water which may be made available by the United States to the Contractor during
276 the subsequent Year referred to as “preuse.” The Contracting Officer’s written approval may permit
277 such uses in accordance with applicable statutes, regulations, guidelines, and policies.

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

285 (i) Project Water furnished to the Contractor pursuant to this Contract may be
286 delivered for purposes other than those described in subdivision (o) of Article 1 of this Contract upon
287 written approval by the Contracting Officer in accordance with the terms and conditions of such
288 approval.

289 (j) The Contracting Officer shall make reasonable efforts to protect the water
290 rights necessary for the Project and to provide the water available under this Contract. The
291 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
292 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,
293 That the Contracting Officer retains the right to object to the substance of the Contractor’s position in
294 such a proceeding; Provided further, That in such proceedings the Contracting Officer shall recognize

295 the Contractor has a legal right under the terms of this Contract to use Project Water.

296 TIME FOR DELIVERY OF WATER

297 4 (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
298 announce the Contracting Officer's expected declaration of the Water Made Available. Such
299 declaration will be expressed in terms of both Water Made Available and the Recent Historic
300 Average and will be updated monthly, and more frequently if necessary, based on then-current
301 operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made
302 Available will be made. The Contracting Officer shall provide forecasts of Project operations and the
303 basis of the estimate, with relevant supporting information, upon the written request of the
304 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer
305 shall provide the Contractor with the updated Recent Historic Average.

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

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

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

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

320 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

321 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
322 Contract shall be delivered to the Contractor at the outlet from the 84-inch pipeline leading from
323 Folsom pumping plant to the Hinkle Wye and any additional point or points of delivery either on
324 Project facilities or another location or locations mutually agreed to in writing by the Contracting
325 Officer and the Contractor.

326 (b) Omitted.

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

329 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
330 measured and recorded with equipment furnished, installed, operated, and maintained by the United
331 States, or other appropriate entity as designated by the Contracting Officer (hereafter "other
332 appropriate entity") at the point or points of delivery established pursuant to subdivision (a) of this
333 Article. Upon the request of either party to this Contract, the Contracting Officer shall investigate, or
334 cause to be investigated, the accuracy of such measurements and shall take any necessary steps to
335 adjust any errors appearing therein. For any period of time when accurate measurements have not
336 been made, the Contracting Officer shall consult with the Contractor prior to making a final
337 determination of the quantity delivered for that period of time.

338 (e) The Contracting Officer shall not be responsible for the control, carriage,
339 handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this Contract
340 beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall
341 indemnify the United States, its officers, employees, agents, and assigns on account of damage or
342 claim of damage of any nature whatsoever for which there is legal responsibility, including property
343 damage, personal injury, or death arising out of or connected with the control, carriage, handling, use,

344 disposal, or distribution of such Water Delivered beyond such delivery points, except for any damage
345 or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers,
346 employees, agents, or assigns with the intent of creating the situation resulting in any damage or
347 claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents, or
348 assigns; (iii) negligence of the Contracting Officer or any of its officers, employees, agents, or
349 assigns; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated by
350 the United States.

351 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

352 6. (a) The Contractor shall ensure that, unless the Contractor establishes an
353 alternative measurement program satisfactory to the Contracting Officer, all surface water delivered
354 for M&I purposes is measured at each M&I service connection. The water measuring devices or
355 water measuring methods of comparable effectiveness must be acceptable to the Contracting Officer.
356 The Contractor shall be responsible for installing, operating, and maintaining and repairing all such
357 measuring devices and implementing all such water measuring methods at no cost to the United
358 States. The Contractor shall use the information obtained from such water measuring devices or
359 water measuring methods to ensure its proper management of the water, to bill water users for water
360 delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes by
361 customer class as defined in the Contractor's water conservation plan provided for in Article 26 of
362 this Contract. Nothing herein contained, however, shall preclude the Contractor from establishing
363 and collecting any charges, assessments, or other revenues authorized by California law. The
364 Contractor shall include a summary of all its annual surface water deliveries in the annual report
365 described in subdivision (c) of Article 26.

366 (b) To the extent the information has not otherwise been provided, upon execution
367 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
368 the measurement devices or water measuring methods being used or to be used to implement

369 subdivision (a) of this Article and identifying the M&I service connections or alternative
370 measurement programs approved by the Contracting Officer, at which such measurement devices or
371 water measuring methods are being used, and, if applicable, identifying the locations at which such
372 devices and/or methods are not yet being used including a time schedule for implementation at such
373 locations. The Contracting Officer shall advise the Contractor in writing within 60 days as to the
374 adequacy and necessary modifications, if any, of the measuring devices or water measuring methods
375 identified in the Contractor's report and if the Contracting Officer does not respond in such time, they
376 shall be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring
377 devices or methods are inadequate, the parties shall within 60 days following the Contracting
378 Officer's response, commence to negotiate in good faith how, and the earliest practicable date by
379 which, the Contractor shall modify said measuring devices and/or measuring methods as required by
380 the Contracting Officer to ensure compliance with subdivision (a) of this Article.

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

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

387 (e) The Contractor shall inform the Contracting Officer on or before the 20th
388 calendar day of each month of the quantity of M&I Water taken during the preceding month.

389 RATES AND METHOD OF PAYMENT FOR WATER

390 7. (a) The Contractor shall pay the United States as provided in this Article for all
391 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance
392 with: (i) the Secretary's then-existing ratesetting policy for M&I Water, which ratesetting policy
393 shall be amended, modified, or superseded only through a public notice and comment procedure; (ii)

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

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

401 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
402 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period
403 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and
404 the basis for such estimate. The Contractor shall be allowed not less than two months to review and
405 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
406 Officer shall notify the Contractor in writing of the Charges to be in effect during the period October
407 1 of the current Calendar Year, through September 30, of the following Calendar Year, and such
408 notification shall revise Exhibit "B."

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

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

419 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
420 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end
421 of the first month and before the end of each calendar month thereafter, the Contractor shall make an
422 advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the
423 Water Scheduled to be delivered pursuant to this Contract during the second month immediately
424 following. Adjustments between advance payments for Water Scheduled and payments at Rates due
425 for Water Delivered shall be made before the end of the following month; Provided, That any revised
426 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the
427 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with
428 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered
429 to the Contractor in advance of such payment. In any month in which the quantity of Water
430 Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid
431 for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and
432 until an advance payment at the Rates then in effect for such additional Project Water is made. Final
433 adjustment between the advance payments for the Water Scheduled and payments for the quantities
434 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable
435 but no later than April 30th of the following Year, or 60 days after the delivery of Project Water
436 carried over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the
437 last day of February.

438 (d) The Contractor shall also make a payment in addition to the Rate(s) in
439 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
440 appropriate Tiered Pricing Component then in effect, before the end of the month following the
441 month of delivery. The payments shall be consistent with the quantities of M&I Water Delivered as
442 shown in the water delivery report for the subject month prepared by the Contracting Officer. The
443 water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered

444 Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of Charges
445 shall be made through the adjustment of payments due to the United States for Charges for the next
446 month. Any amount to be paid for past due payment of Charges and the Tiered Pricing Component
447 shall be computed pursuant to Article 20 of this Contract.

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

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

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

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

467 (i) The parties acknowledge and agree that the efficient administration of this
468 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,

469 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components,
470 and/or for making and allocating payments, other than those set forth in this Article may be in the
471 mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements to
472 modify the mechanisms, policies, and procedures for any of those purposes while this Contract is in
473 effect without amending this Contract.

474 (j) (1) Beginning at such time as deliveries of Project Water in a Year
475 exceed 80 percent of the Contract Total, then before the end of the month following the month of
476 delivery the Contractor shall make an additional payment to the United States equal to the applicable
477 Tiered Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in
478 excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the Contract Total,
479 shall equal one-half of the difference between the Rate established under subdivision (a) of this
480 Article and the M&I Full Cost Water Rate. The Tiered Pricing Component for the amount of Water
481 Delivered which exceeds 90 percent of the Contract Total shall equal the difference between (i) the
482 Rate established under subdivision (a) of this Article and (ii) the M&I Full Cost Water Rate.

483 (2) Omitted.

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

489 (k) For the term of this Contract, Rates under the respective ratesetting policies
490 will be established to recover only reimbursable O&M (including any deficits) and capital costs of
491 the Project, as those terms are used in the then-current Project ratesetting policies, and interest, where
492 appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant

493 Project ratesetting policy. Changes of significance in practices which implement the Contracting
494 Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the
495 Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

496 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
497 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
498 upward or downward to reflect the changed costs, if any, incurred by the Contracting Officer in the
499 delivery of the transferred Project Water to the transferee's point of delivery in accordance with the
500 then-applicable Project ratesetting policy.

501 (m) Omitted.

502 (n) With respect to the Rates for M&I Water, the Contractor asserts that it is not
503 legally obligated to pay any Project deficits claimed by the United States to have accrued as of the
504 date of this Contract or deficit related interest charges thereon. By entering into this Contract, the
505 Contractor does not waive any legal rights or remedies that it may have with respect to such disputed
506 issues. Notwithstanding the execution of this Contract, and payments made hereunder, the
507 Contractor may challenge in the appropriate administrative or judicial forums: (1) the existence,
508 computation, or imposition of any deficit charges accruing during the term of the Existing Contract
509 and any preceding interim renewal contracts, if applicable; (2) interest accruing on any such deficits;
510 (3) the inclusion of any such deficit charges or interest in the Rates; (4) the application by the United
511 States of payments made by the Contractor under its Existing Contract and any preceding interim
512 renewal contracts, if applicable; and (5) the application of such payments in the Rates. The
513 Contracting Officer agrees that the Contractor shall be entitled to the benefit of any administrative or
514 judicial ruling in favor of any other Central Valley Project M&I contractor on any of these issues,
515 and credits for payments heretofore made, provided that, the basis for such ruling is applicable to the
516 Contractor.

517 8. Omitted.

518 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

529 (b) In order to facilitate efficient water management, among Project Contractors
530 located within the same geographical area, by means of water transfers and to allow the Contractor to
531 participate in an accelerated water transfer program during the term of this Contract, the Contracting
532 Officer shall prepare, as appropriate, all necessary environmental documentation including, but not
533 limited to, documents prepared pursuant to NEPA and ESA analyzing annual transfers within such
534 geographical areas and the Contracting Officer shall determine whether such transfers comply with
535 applicable law. Following the completion of the environmental documentation, such transfers
536 addressed in such documentation shall be conducted with advance notice to the Contracting Officer,
537 but shall not require prior written approval by the Contracting Officer. Such environmental
538 documentation and the Contracting Officer's compliance determination shall be reviewed every five
539 years and updated, as necessary, prior to the expiration of the then-existing five-year period. All
540 subsequent environmental documentation shall include an alternative to evaluate not less than the
541 quantity of Project Water historically transferred within the same geographical area.

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

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

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

580 (b) The Contracting Officer may temporarily discontinue or reduce the quantity of
581 Water Delivered to the Contractor as herein provided for the purposes of investigation, inspection,
582 maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for
583 the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer will give
584 the Contractor due notice in advance of such temporary discontinuance or reduction, except in case
585 of emergency, in which case no notice need be given; Provided, That the United States shall use its
586 best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service
587 after such reduction or discontinuance, and if requested by the Contractor, the United States will, if
588 possible, deliver the quantity of Project Water which would have been delivered hereunder in the
589 absence of such discontinuance or reduction.

590 (c) The United States reserves the right to all seepage and return flow water

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

596 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

607 (c) Omitted.

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

611 (e) By entering into this Contract, the Contractor does not waive any legal rights
612 or remedies it may have to file or participate in any administrative or judicial proceeding contesting
613 (i) the sufficiency of the manner in which any Project M&I Water Shortage Policy adopted after the
614 effective date of this Contract was promulgated; (ii) the substance of such a policy; or (iii) the
615 applicability of such a policy. By agreeing to the foregoing, the Contracting Officer does not waive

616 any legal defenses or remedies that it may then have to assert in such a proceeding.

617 13. Omitted.

618 | RULES AND REGULATIONS

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619 14. The parties agree that the delivery of M&I Water or use of Federal facilities pursuant
620 to this Contract is subject to the applicable provisions of Federal Reclamation law and any applicable
621 rules and regulations promulgated by the Secretary of the Interior under such law.

622 WATER AND AIR POLLUTION CONTROL

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

626 QUALITY OF WATER

627 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to
628 this Contract shall be operated and maintained to enable the United States to deliver Project Water to
629 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act
630 of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat.
631 3050) or other existing Federal laws. The United States is under no obligation to construct or furnish
632 water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor
633 pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the
634 Contractor pursuant to this Contract.

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

641 Area.

642 (c) The Contracting Officer and the Contractor shall communicate, coordinate and
643 cooperate with each other with respect to the operation and management of the Project by the United
644 States in accordance with Articles 11 and 19 of this Contract.

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

647 17. (a) Omitted.

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

653 (1) The Contractor may introduce non-Project water into Project facilities
654 and deliver said water to lands within the Contractor's Service Area, subject to payment to the United
655 States of an appropriate rate as determined by the applicable Project ratesetting policy and the Project
656 use power policy, if such Project use power policy is applicable, each as amended, modified, or
657 superseded from time to time.

658 (2) Delivery of such non-Project water in and through Project facilities
659 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as
660 determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other
661 Project Contractors; (iii) interfere with the delivery of contractual water entitlements to any other
662 Project Contractors; or (iv) interfere with the physical maintenance of the Project facilities; Provided,
663 that nothing in this Article is intended to preclude the United States from passing the Contractor's
664 water rights water through Project storage facilities to the extent required to satisfy the Contractor's
665 water rights that are senior to those of the Project under the applicable provisions of California water
666 law. Provided further, that the United States has determined that the delivery of non-Project water in

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667 and through Project facilities pursuant to Warren Act Contract No. 02-WC-20-2217 between the
668 United States and the Contractor, as it now exists and may be amended, extended, or renewed in the
669 future, satisfies the requirements of this Article.

670 (3) The United States shall not be responsible for control, care, or
671 distribution of the non-Project water before it is introduced into or after it is delivered from the
672 Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United
673 States and their respective officers, agents, and employees, from any claim for damage to persons or
674 property, direct or indirect, resulting from the acts of the Contractor, or its officers', employees',
675 agents' or assigns', in (i) extracting or diverting non-Project water from any source, or (ii) diverting
676 such non-Project water 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 Contractor shall share priority to utilize the remaining capacity of
682 the facilities declared to be available by the Contracting Officer for conveyance and transportation of
683 non-Project water prior to any such remaining capacity being made available to non-Project
684 Contractors.

685 OPINIONS AND DETERMINATIONS

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

692 provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is intended to
693 or shall affect or alter the standard of judicial review applicable under federal law to any opinion or
694 determination implementing a specific provision of federal law embodied in statute or regulation.

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

700 COORDINATION AND COOPERATION

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

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

716 (c) In light of the factors referred to in subdivision (b) of Article 3 of this

717 Contract, it is the intent of the Secretary to improve water supply reliability. To carry out this intent:

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

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

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

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

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

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

737 CHARGES FOR DELINQUENT PAYMENTS

738 20. (a) The Contractor shall be subject to interest, administrative and penalty charges
739 on delinquent installments or payments. When a payment is not received by the due date, the
740 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
741 When a payment becomes sixty days delinquent, the Contractor shall pay an administrative charge to
742 cover additional costs of billing and processing the delinquent payment. When a payment is
743 delinquent ninety days or more, the Contractor shall pay an additional penalty charge of six (6%)
744 percent per year for each day the payment is delinquent beyond the due date. Further, the Contractor

745 shall pay any fees incurred for debt collection services associated with a delinquent payment.

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

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

754 EQUAL OPPORTUNITY

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

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

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

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

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

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

780 and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules,
781 regulations, and orders.

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

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

798 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

811 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

812 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42
813 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age

814 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as
815 well as with their respective implementing regulations and guidelines imposed by the U.S.
816 Department of the Interior and/or Bureau of Reclamation.

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

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

830 24. Omitted.

831 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

840 WATER CONSERVATION

841 26. (a) Prior to the delivery of water provided from or conveyed through Federally
842 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
843 implementing an effective water conservation and efficiency program based on the Contractor's water
844 conservation plan that has been determined by the Contracting Officer to meet the conservation and

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

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

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

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

869 conservation plan meets Reclamation's then-current conservation and efficiency criteria for
870 evaluating water conservation plans established under Federal law.

871 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall
872 be described in the Contractor's water conservation plan. Such water conservation plan shall
873 demonstrate sufficient lawful uses exist in the Contractor's Service Area so that using a long-term
874 average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in
875 compliance with Federal Reclamation Law.

876 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

884 28. Omitted.

885 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

886 29. The expenditure or advance of any money or the performance of any obligation of the
887 United States under this Contract shall be contingent upon appropriation or allotment of funds.
888 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
889 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
890 or allotted.

891 BOOKS, RECORDS, AND REPORTS

892 30. (a) The Contractor shall establish and maintain accounts and other books and
893 records pertaining to administration of the terms and conditions of this Contract, including: the
894 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
895 water use data; and other matters that the Contracting Officer may require. Reports thereon shall be
896 furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer
897 may require. Subject to applicable Federal laws and regulations, each party to this Contract shall

898 have the right during office hours to examine and make copies of the other party's books and records
899 relating to matters covered by this Contract.

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

905 (c) Omitted.

906 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

915 SEVERABILITY

916 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
917 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
918 association or other form of organization whose primary function is to represent parties to Project
919 contracts, brings an action in a court of competent jurisdiction challenging the legality or
920 enforceability of a provision included in this Contract and said person, entity, association, or
921 organization obtains a final court decision holding that such provision is legally invalid or
922 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
923 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court
924 decision identify by mutual agreement the provisions in this Contract which must be revised and (ii)

925 within three months thereafter promptly agree on the appropriate revision(s). The time periods
926 specified above may be extended by mutual agreement of the parties. Pending the completion of the
927 actions designated above, to the extent it can do so without violating any applicable provisions of
928 law, the United States shall continue to make the quantities of Project Water specified in this
929 Contract
930 available to the Contractor pursuant to the provisions of this Contract which were not found to be
931 legally invalid or unenforceable in the final court decision.

932 RESOLUTION OF DISPUTES

933 33. Should any dispute arise concerning any provisions of this Contract, or the parties'
934 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
935 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
936 any matter to Department of Justice, the party shall provide to the other party 30 days' written notice
937 of the intent to take such action; Provided, That such notice shall not be required where a delay in
938 commencing an action would prejudice the interests of the party that intends to file suit. During the
939 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in an attempt
940 to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or abridge
941 any right or remedy that the Contractor or the United States may have.

942 OFFICIALS NOT TO BENEFIT

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

946 CHANGES IN CONTRACTOR'S SERVICE AREA

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

950 (b) Within 30 days of receipt of a request for such a change, the Contracting
951 Officer will notify the Contractor of any additional information required by the Contracting Officer

Deleted: ¶

952 for processing said request, and both parties will meet to establish a mutually agreeable schedule for
953 timely completion of the process. Such process will analyze whether the proposed change is likely
954 to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of
955 the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-
956 constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project
957 Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with
958 NEPA and ESA. The Contractor will be responsible for all costs incurred by the Contracting Officer
959 in this process, and such costs will be paid in accordance with Article 25 of this Contract.

960 FEDERAL LAWS

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

967 NOTICES

968 37. Any notice, demand, or request authorized or required by this Contract shall be
969 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
970 to the Area Manager, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, California 95630-
971 1799, and on behalf of the United States, when mailed, postage prepaid, or delivered to the City
972 Council of the City of Roseville, 2005 Hilltop Circle, Roseville, California 95747. The designation
973 of the addressee or the address may be changed by notice given in the same manner as provided in
974 this Article for other notices.

975 CONFIRMATION OF CONTRACT

976 38. The Contractor, after the execution of this Contract, shall furnish to the Contracting
977 Officer evidence that pursuant to the laws of the State of California, the Contractor is a legally
978 constituted entity and the Contract is lawful, valid, and binding on the Contractor. This Contract
979 shall not be binding on the United States until such evidence has been provided to the Contracting
980 Officer's satisfaction.

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

983 Approved as to legal sufficiency. THE UNITED STATES OF AMERICA

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

987 Approved as to form. THE CITY OF ROSEVILLE

988 By: _____ By: _____
989 City Attorney City Manager

990 Attest:

991 By: _____
992 City Clerk

993 (H:\pub 440\LTRC\Folsom Final Draft LTRC's\10-25-04 City of Roseville Final Draft Contract with
994 exhibits.doc)

Contract No. 14-06-200-3474A-LTR1

EXHIBIT A

[Map or Description of Service Area]

EXHIBIT B
2004 Water Rates and Charges
CITY OF ROSEVILLE

	2004 Rates Per Acre-Foot <u>M&I</u>
COST-OF-SERVICE (COS) RATE (1 st Tier - ≤80% of Contract Total)	\$20.09
2ND TIER [>80% <90% of Contract Total] (M&I Full Cost Rate + COS rate/ 2)	\$23.96
3RD TIER [> 90% of Contract Total] (M&I Full Cost Rate)	\$27.82
M&I FULL COST RATE: Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in Section 202 (3) (B) and (C) of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended:	\$27.82
SURCHARGES UNDER P.L. 102-575 TO RESTORATION FUND* Restoration Payments [3407(d)(2)(A)]	\$15.64

* The surcharges are payments in addition to the water rates and are determined pursuant to Title XXXIV of P.L. 102-575. Restoration Fund surcharges under P.L. 102-575 are on a fiscal year basis (10/1 -9/30).

Note: Additional detail of rate components is available on the Internet at <http://www.mp.usbr.gov/cvpwaterrates/>.