

AG and M&I  
 R. O. Final CVP-Wide Draft 4/19-2004  
 Dunnigan WD Draft 7/22-2003  
 Dunnigan WD Draft 6/26-2003  
 Dunnigan WD Draft 6/25-2003  
 R.O. Final CVP-Wide 6/10-2003  
 Sac.Valley Division Draft 5/28-2003  
 CVP-Wide Draft 5/23-2003  
 Contract No.  
 14-06-200-399-A-LTR1

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

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

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Exhibit A - Map of Contractor's Boundaries

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DEPARTMENT OF THE INTERIOR  
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Central Valley Project, California

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

10 THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, in  
11 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or  
12 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as  
13 amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2,  
14 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986  
15 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all  
16 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES  
17 OF AMERICA, hereinafter referred to as the United States, and DUNNIGAN WATER DISTRICT,  
18 hereinafter referred to as the Contractor, a public agency of the State of California, duly organized,  
19 existing, and acting pursuant to the laws thereof;

20

WITNESSETH, That:

EXPLANATORY RECITALS

21  
22 [1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley  
23 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for  
24 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection  
25 and restoration, generation and distribution of electric energy, salinity control, navigation and  
26 other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River,  
27 and the San Joaquin River and their tributaries; and

28 [2<sup>nd</sup>] WHEREAS, the United States constructed the Red Bluff Diversion Dam, and the  
29 Tehama-Colusa Canal and related delivery facilities including pumping plants, hereinafter  
30 collectively referred to as the Canal Facilities, which will be used in part for the furnishing of  
31 water to the Contractor pursuant to the terms of this Contract; and

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

34 [4<sup>th</sup>] WHEREAS, the Contractor and the United States entered into Contract  
35 No. 14-06-200-399-A, which established terms for the delivery to the Contractor of Project  
36 Water from the Canal Facilities from February 5, 1963, through February 28, 1995, and under  
37 which the initial date of water delivery to the Contractor was January 1, 1983; and

38 [5<sup>th</sup>] WHEREAS, the Contractor and the United States have pursuant to subsection  
39 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into  
40 interim renewal contract(s) identified as Contract No(s). 14-06-200-399-A-IR1, 14-06-200-399-  
41 A-IR2, 14-06-200-399-A-IR3, 14-06-200-399-A-IR4, 14-06-200-399-A-IR5, 14-06-200-399-A-  
42 IR6, 14-06-200-399-A-IR7, and 14-06-200-399-A-IR8, the current of which is hereinafter  
43 referred to as the Existing Contract, which provided for the continued water service to the  
44 Contractor from March 1, 2004, through February 28, 2006; and

45 [6<sup>th</sup>] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the  
46 Existing Contract following completion of appropriate environmental documentation, including a

47 programmatic environmental impact statement (PEIS) pursuant to the National Environmental  
48 Policy Act (NEPA), analyzing the direct and indirect impacts and benefits of implementing the  
49 CVPIA and the potential renewal of all existing contracts for Project Water; and

50 [7<sup>th</sup>] WHEREAS, the United States has completed the PEIS and all other appropriate  
51 environmental review necessary to provide for long-term renewal of the Existing Contract; and

52 [8<sup>th</sup>] WHEREAS, the Contractor has requested the long-term renewal of the Existing  
53 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws  
54 of the State of California, for water service from the Project; and

55 [9<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all  
56 of its obligations under the Existing Contract; and

57 [10<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the  
58 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for  
59 reasonable and beneficial use and, based upon a needs analysis cooperatively prepared by the  
60 Contracting Officer and the Contractor, has demonstrated projected future demand for water use  
61 that exceeds the Contract Total to be made available to it pursuant to this Contract; and

62 [11<sup>th</sup>] WHEREAS, water obtained from the Project has been relied upon by urban and  
63 agricultural areas within California for more than 50 years, and is considered by the Contractor  
64 as an essential portion of its water supply; and

65 [12<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the  
66 Contractor's, depend upon the continued availability of water, including water service from the  
67 Project; and

68 [13<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and  
69 partnerships to pursue measures to improve water supply, water quality, and reliability of the  
70 Project for all Project purposes; and

71 [14<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
72 provide for reliable Project Water supplies; to control costs of those supplies; to achieve

73 repayment of the Project as required by law; to guard reasonably against Project Water  
74 shortages; to achieve a reasonable balance among competing demands for use of Project Water;  
75 and to comply with all applicable environmental statutes, all consistent with the legal obligations  
76 of the United States relative to the Project; and

77 [15<sup>th</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative  
78 relationship in order to achieve their mutual goals; and

79 [16<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into this  
80 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

83 DEFINITIONS

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

86 (a) “Calendar Year” shall mean the period January 1 through December 31,  
87 both dates inclusive;

88 (b) “Charges” shall mean the payments required by Federal Reclamation law  
89 in addition to the Rates and Tiered Pricing Component specified in this Contract as determined  
90 annually by the Contracting Officer pursuant to this Contract;

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

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

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

99 (f) “Contractor’s Boundaries” shall mean the area to which the Contractor is  
100 permitted to provide Project Water under this Contract as described in Exhibit “A” attached  
101 hereto, which may be modified from time to time in accordance with Article 35 of this Contract  
102 without amendment of this Contract;

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

105 (h) “Eligible Lands” shall mean all lands to which Irrigation Water may be  
106 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982  
107 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

108 (i) “Excess Lands” shall mean all lands in excess of the limitations contained  
109 in Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal  
110 Reclamation law;

111 (j) “Full Cost Rate” shall mean an annual rate, as determined by the  
112 Contracting Officer that shall amortize the expenditures for construction properly allocable to the  
113 Project irrigation or M&I functions, as appropriate, of facilities in service including all O&M  
114 deficits funded, less payments, over such periods as may be required under Federal Reclamation  
115 law, or applicable contract provisions. Interest will accrue on both the construction expenditures  
116 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the  
117 date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated  
118 in accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes  
119 actual operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules  
120 and Regulations for the RRA. The Full Cost Rate used to compute the Tiered Pricing  
121 Component defined in subdivision (y) of this Article does not include the costs associated with  
122 the Contractor’s Irrigation Water distribution works constructed by the United States. However,  
123 the Irrigation Full Cost Water Rate defined in subdivision (l) of this Article does include such  
124 costs;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

180 TERM OF CONTRACT

181 2. (a) This Contract shall be effective March 1, 20\_\_\_\_, through February 28,  
182 20\_\_\_\_, and supercedes the Existing Contract. In the event the Contractor wishes to renew this  
183 Contract beyond February 28, 20\_\_\_\_, the Contractor shall submit a request for renewal in writing  
184 to the Contracting Officer no later than two years prior to the date this Contract expires. The  
185 renewal of this Contract insofar as it pertains to the furnishing of Irrigation Water to the  
186 Contractor shall be governed by subdivision (b) of this Article, and the renewal of this Contract  
187 insofar as it pertains to the furnishing of M&I Water to the Contractor shall be governed by  
188 subdivision (c) of this Article.

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

194 (2) The conditions which must be met for this Contract to be renewed  
195 are: (i) the Contractor has prepared a water conservation plan that has been determined by the  
196 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and  
197 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is  
198 implementing an effective water conservation and efficiency program based on the Contractor's  
199 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is  
200 maintaining all water measuring devices and implementing all water measurement methods as

201 approved by the Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor  
202 has reasonably and beneficially used the Project Water supplies made available to it and, based  
203 on projected demands, is reasonably anticipated and expects to fully utilize for reasonable and  
204 beneficial use the quantity of Project Water to be made available to it pursuant to such renewal;  
205 (v) the Contractor is complying with all terms and conditions of this Contract; and (vi) the  
206 Contractor has the physical and legal ability to deliver Project Water.

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

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

225 (d) The Contracting Officer shall make a determination ten years after the  
226 date of execution of this Contract, and every five years thereafter during the term of this

227 Contract, of whether a conversion of the relevant portion of this Contract to a contract under  
228 subsection 9(d) of the Reclamation Project Act of 1939 can be accomplished pursuant to the Act  
229 of July 2, 1956 (70 State 483). The Contracting Officer shall also make a determination ten  
230 years after the date of execution of this Contract and every five years thereafter during the term  
231 of this Contract of whether a conversion of the relevant portion of this Contract to a contract  
232 under subsection 9(c)(1) of the Reclamation Project Act of 1939 can be accomplished.

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

253 costs has not been made at a time which allows conversion of this Contract during the term of  
254 this Contract or the Contractor has not requested conversion of this Contract within such term,  
255 the parties shall incorporate in any subsequent renewal contract as described in subdivision (b) of  
256 this Article a provision that carries forth in substantially identical terms the provisions of this  
257 subdivision.

258 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

259 3. (a) During each Year, consistent with all applicable State water rights,  
260 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of  
261 this Contract, the Contracting Officer shall make available for delivery to the Contractor 19,000  
262 acre-feet of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in  
263 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of  
264 Articles 4 and 7 of this Contract.

265 (b) Because the capacity of the Project to deliver Project Water has been  
266 constrained in recent years and may be constrained in the future due to many factors including  
267 hydrologic conditions and implementation of Federal and State laws, the likelihood of the  
268 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this  
269 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the  
270 PEIS projected that the Contract Total set forth in this Contract will not be available to the  
271 Contractor in many years. During the most recent five years, the Recent Historic Average of  
272 water made available to the Contractor was 17,480 acre-feet. Nothing in subdivision (b) of this  
273 Article shall affect the rights and obligations of the parties under any provision of this Contract.

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

276 (d) The Contractor shall make reasonable and beneficial use of water  
277 furnished pursuant to this Contract. Ground-water recharge programs (direct, indirect, or in  
278 lieu), ground-water banking programs, surface water storage programs, and other similar

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

292 (e) The Contractor shall comply with requirements applicable to the  
293 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution  
294 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),  
295 as amended, that are within the Contractor's legal authority to implement. The Existing  
296 Contract, which evidences in excess of 20 years of diversions for irrigation and/or M&I purposes  
297 of the quantities of water provided in subdivision (a) of Article 3 of this Contract, will be  
298 considered in developing an appropriate baseline for biological assessment(s) prepared pursuant  
299 to the ESA, and any other needed environmental review. Nothing herein shall be construed to  
300 prevent the Contractor from challenging or seeking judicial relief in a court of competent  
301 jurisdiction with respect to any biological opinion or other environmental documentation referred  
302 to in this Article.

303 (f) As soon as possible following each declaration of Water Made Available  
304 under Article 4 of this Contract, the Contracting Officer will make a determination whether

305 Project Water, or other water available to the Project, can be made available to the Contractor in  
306 addition to the Contract Total under Article 3 of this Contract during the Year without adversely  
307 impacting other Project Contractors. At the request of the Contractor, the Contracting Officer  
308 will consult with the Contractor prior to making such a determination. If the Contracting Officer  
309 determines that Project Water, or other water available to the Project, can be made available to  
310 the Contractor, the Contracting Officer will announce the availability of such water and shall so  
311 notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the  
312 Contractor and other Project Contractors capable of taking such water to determine the most  
313 equitable and efficient allocation of such water. If the Contractor requests the delivery of any  
314 quantity of such water, the Contracting Officer shall make such water available to the Contractor  
315 in accordance with applicable statutes, regulations, guidelines, and policies.

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

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

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

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

342 TIME FOR DELIVERY OF WATER

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

352 (b) On or before each March 1 and at such other times as necessary, the  
353 Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the  
354 Contracting Officer, showing the monthly quantities of Project Water to be delivered by the  
355 United States to the Contractor pursuant to this Contract for the Year commencing on such

356 March 1. The Contracting Officer shall use all reasonable means to deliver Project Water  
357 according to the approved schedule for the Year commencing on such March 1.

358 (c) The Contractor shall not schedule Project Water in excess of the quantity  
359 of Project Water the Contractor intends to put to reasonable and beneficial use within the  
360 Contractor's Boundaries or to sell, transfer, or exchange pursuant to Article 9 of this Contract  
361 during any Year.

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

367 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

368 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
369 Contract shall be delivered to the Contractor at approved turnouts on the Canal Facilities and any  
370 additional point or points of delivery either on Project facilities or another location or locations  
371 mutually agreed to in writing by the Contracting Officer and the Contractor. The United States  
372 shall furnish such power as may be necessary to pump Project Water at the existing Tehama-  
373 Colusa Canal side pumping plants and at existing relift stations at heads and elevations sufficient  
374 to irrigate by gravity all areas within the Contractor's Boundaries below elevation 380 (MSL).

375 (b) The Contracting Officer, either directly or through its written agreement(s)  
376 with the Operating Non-Federal Entity/Entities shall make all reasonable efforts to maintain  
377 sufficient flows and levels of water in Project facilities to deliver Project Water to the Contractor  
378 at specific turnouts established pursuant to subdivision (a) of this Article. The parties  
379 acknowledge that it may be necessary from time to time to shut down some or all of Project facilities for  
380 maintenance or emergencies. Except in the case of emergency, the Contracting Officer shall  
381 consult with the Contractor to schedule the shut down at such times and for such duration as will

382 allow for the work to be accomplished completely and efficiently, and with a minimum of  
383 disruption of water service to the Contractor. In this regard, shut downs will, to the extent  
384 reasonably possible, be limited to the months of December and January.

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

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

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

408 officers, employees, agents, or assigns, including the Operating Non-Federal Entity/Entities, with  
409 the intent of creating the situation resulting in any damage or claim, (ii) willful misconduct of the  
410 Contracting Officer or any of its officers, employees, agents, or assigns, including the Operating  
411 Non-Federal Entity/Entities, (iii) negligence of the Contracting Officer or any of its officers,  
412 employees, agents, or assigns including the Operating Non-Federal Entity/Entities, or (iv)  
413 damage or claims resulting from a malfunction of facilities owned and/or operated by the United  
414 States or responsible Operating Non-Federal Entity/Entities.

415 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S BOUNDARIES

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

432 (b) To the extent the information has not otherwise been provided, upon  
433 execution of this Contract, the Contractor shall provide to the Contracting Officer a written

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

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

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

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

457 RATES AND METHOD OF PAYMENT FOR WATER

458 7. (a) The Contractor shall pay the United States as provided in this Article for  
459 all Delivered Water at Rates, Charges, and the Tiered Pricing Component established in  
460 accordance with (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and  
461 the Secretary's then-existing ratesetting policy for M&I Water. Such ratesetting policies shall be  
462 amended, modified, or superceded only through a public notice and comment procedure; (ii)  
463 applicable Federal Reclamation law and associated rules and regulations, or policies; and (iii)  
464 other applicable provisions of this Contract. Payments shall be made by cash transaction,  
465 electronic funds transfer, or any other mechanism as may be agreed to in writing by the  
466 Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing Component  
467 applicable to the Contractor upon execution of this Contract are set forth in Exhibit "B," as may  
468 be revised annually.

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

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

479 (2) Prior to October 1 of each Calendar Year, the Contracting Officer  
480 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component  
481 for Project Water for the following Year and the computations and cost allocations upon which  
482 those Rates are based. The Contractor shall be allowed not less than two months to review and

483 comment on such computations and cost allocations. By December 31 of each Calendar Year,  
484 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing  
485 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B."

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

509                   (d)     The Contractor shall also make a payment in addition to the Rate(s) in  
510 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the  
511 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
512 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered  
513 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be  
514 consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the  
515 water delivery report for the subject month prepared by the Operating Non-Federal  
516 Entity/Entities or, if there is no Operating Non-Federal Entity/Entities, by the Contracting  
517 Officer. The water delivery report shall be deemed a bill for the payment of Charges and the  
518 applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or  
519 underpayment of Charges shall be made through the adjustment of payments due to the United  
520 States for Charges for the next month. Any amount to be paid for past due payment of Charges  
521 and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

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

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

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

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

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

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

558 established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or  
559 M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to  
560 subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract  
561 Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in  
562 the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.  
563 Solely for the purpose of calculating the Tiered Pricing Component, the Full Cost Rate shall not  
564 include the interest component of the Contractor's water distribution system constructed by the  
565 United States and covered by Repayment Contract No. 14-06-200-8311A entered into pursuant  
566 to 43 USC 485h(d).

567 (2) Subject to the Contracting Officer's written approval, the  
568 Contractor may request and receive an exemption from such Tiered Pricing Components for  
569 Project Water delivered to produce a crop which the Contracting Officer determines will provide  
570 significant and quantifiable habitat values for waterfowl in fields where the water is used and the  
571 crops are produced; Provided, That the exemption from the Tiered Pricing Component for  
572 Irrigation Water shall apply only if such habitat values can be assured consistent with the  
573 purposes of the CVPIA through binding agreements executed with or approved by the  
574 Contracting Officer prior to use of such water.

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

580 (k) For the term of this Contract, Rates under the respective ratesetting  
581 policies will be established to recover only reimbursable O&M (including any deficits) and

582 capital costs of the Project, as those terms are used in the then-current Project ratesetting  
583 policies, and interest, where appropriate, except in instances where a minimum Rate is applicable  
584 in accordance with the relevant Project ratesetting policy. Changes of significance in practices  
585 which implement the Contracting Officer's ratesetting policies will not be implemented until the  
586 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and  
587 impact of the proposed change.

588 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the  
589 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates  
590 adjusted upward or downward to reflect the changed costs, if any, incurred by the Contracting  
591 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in  
592 accordance with the then applicable Project ratesetting policy. If the Contractor is receiving  
593 lower Rates and Charges because of inability to pay and is transferring Project Water to another  
594 entity whose Rates and Charges are not adjusted due to inability to pay, the Rates and Charges  
595 for transferred Project Water shall be the Contractor's Rates and Charges and will not be  
596 adjusted to reflect the Contractor's inability to pay.

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

599 (n) With respect to the Rates for M&I Water, the Contractor asserts that it is  
600 not legally obligated to repay any Project deficits claimed by the United States to have accrued  
601 as of the date of this Contract or deficit-related interest charges thereon. By entering into this  
602 Contract, the Contractor does not waive any legal rights or remedies that it may have with  
603 respect to such disputed issues. Notwithstanding the execution of this Contract, and payments  
604 made hereunder, the Contractor may challenge in the appropriate administrative or judicial  
605 forums: (1) the existence, computation, or imposition of any deficit charges accruing during the  
606 term of the Existing Contract and any preceding interim renewal contracts, if applicable; (2)  
607 interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in

608 the Rates; (4) the application by the United States of payments made by the Contractor under its  
609 Existing Contract and any preceding interim renewal contracts, if applicable; and (5) the  
610 application of such payments in the Rates. The Contracting Officer agrees that the Contractor  
611 shall be entitled to the benefit of any administrative or judicial ruling in favor of any other  
612 Project M&I contractor on any of these issues and credits for payments heretofore made,  
613 Provided, That, the basis for such ruling is applicable to the Contractor.

614 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

618 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

630 (b) In order to facilitate efficient water management by means of water  
631 transfers of the type historically carried out among Project Contractors located within the same  
632 geographical area and to allow the Contractor to participate in an accelerated water transfer  
633 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,

634 all necessary environmental documentation including, but not limited to, documents prepared  
635 pursuant to NEPA and ESA, analyzing annual transfers within such geographical areas and the  
636 Contracting Officer shall determine whether such transfers comply with applicable law.  
637 Following the completion of the environmental documentation, such transfers addressed in such  
638 documentation shall be conducted with advance notice to the Contracting Officer, but shall not  
639 require prior written approval by the Contracting Officer. Such environmental documentation  
640 and the Contracting Officer's compliance determination shall be reviewed every five years and  
641 updated, as necessary, prior to the expiration of the then-existing five-year period. All  
642 subsequent environmental documentation shall include an alternative to evaluate not less than the  
643 quantity of Project Water historically transferred within the same geographical area.

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

655 (d) For the purpose of determining whether Section 3405(a)(1)(M) of the  
656 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the Contracting  
657 Officer acknowledges that the Contractor is within a county, watershed, or other area of origin,  
658 as those terms are utilized under California law, of water that constitutes the natural flow of the

659 Sacramento River and its tributaries above the confluence of the American and Sacramento  
660 Rivers.

661 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

678 TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

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

701 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

707 (b) If there is a Condition of Shortage because of errors in physical operations  
708 of the Project, drought, other physical causes beyond the control of the Contracting Officer or  
709 actions taken by the Contracting Officer to meet legal obligations then, except as provided in

710 subdivision (a) of Article 18 of this Contract, no liability shall accrue against the United States or  
711 any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom.

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

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

721 UNAVOIDABLE GROUNDWATER PERCOLATION

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

726 RULES AND REGULATIONS

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

732 WATER AND AIR POLLUTION CONTROL

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

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QUALITY OF WATER

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16. (a) Project facilities used to deliver Project Water to the Contractor pursuant

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to this Contract shall be operated and maintained to enable the United States to deliver Project

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Water to the Contractor in accordance with the water quality standards specified in subsection

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2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of

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October 27, 1986 (100 Stat. 3050), or other existing Federal laws. The United States is under no

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obligation to construct or furnish water treatment facilities to maintain or to improve the quality

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of Water Delivered to the Contractor pursuant to this Contract. The United States does not

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warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

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(b) The O&M of Project facilities shall be performed in such manner as is

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practicable to maintain the quality of raw water made available through such facilities at the

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highest level reasonably attainable as determined by the Contracting Officer. The Contractor

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shall be responsible for compliance with all State and Federal water quality standards applicable

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to surface and subsurface agricultural drainage discharges generated through the use of Federal

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or Contractor facilities or Project Water provided by the Contractor within the Contractor's

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Boundaries.

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WATER ACQUIRED BY THE CONTRACTOR

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OTHER THAN FROM THE UNITED STATES

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17. (a) Water or water rights now owned or hereafter acquired by the Contractor

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other than from the United States and Irrigation Water furnished pursuant to the terms of this

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Contract may be simultaneously transported through the same distribution facilities of the

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Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water

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and non-Project water were constructed without funds made available pursuant to Federal

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Reclamation law, the provisions of Federal Reclamation law will be applicable only to the

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Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive

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Irrigation Water must be established through the certification requirements as specified in the

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Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of

764 Eligible Lands within the Contractor's Boundaries can be established and the quantity of  
765 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such  
766 Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and  
767 non-Project water are/were constructed with funds made available pursuant to Federal  
768 Reclamation law, the non-Project water will be subject to the acreage limitation provisions of  
769 Federal Reclamation law, unless the Contractor pays to the United States the incremental fee  
770 described in 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will  
771 calculate annually the cost to the Federal Government, including interest, on storing or delivering  
772 non-Project water, which for purposes of this Contract shall be determined as follows: The  
773 quotient shall be the unpaid distribution system costs divided by the total irrigable acreage within  
774 the Contractor's Boundaries. The incremental fee per acre is the mathematical result of such  
775 quotient times the interest rate determined using Section 202 (3) of the Act of October 12, 1982  
776 (96 Stat. 1263). Such incremental fee will be charged to each acre of excess or full cost land  
777 within the Contractor's Boundaries that receives non-Project water through Federally financed or  
778 constructed facilities. The incremental fee calculation methodology will continue during the  
779 term of this Contract absent the promulgation of a contrary Reclamation-wide rule, regulation, or  
780 policy adopted after the Contractor has been afforded the opportunity to review and comment on  
781 the proposed rule, regulation, or policy. If such rule, regulation, or policy is adopted it shall  
782 supercede this provision.

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

788 (1) The Contractor may introduce non-Project water into Project  
789 facilities and deliver said water to lands within the Contractor's Boundaries, including Ineligible

790 Lands, subject to payment to the United States and/or to any applicable Operating Non-Federal  
791 Entity of an appropriate rate as determined by the applicable Project ratesetting policy, the RRA,  
792 and the Project use power policy, if such Project use power policy is applicable, each as  
793 amended, modified, or superceded from time to time.

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

800 (3) Neither the United States nor the Operating Non-Federal Entity  
801 shall be responsible for control, care, or distribution of the non-Project water before it is  
802 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases  
803 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and  
804 their respective officers, agents, and employees, from any claim for damage to persons or  
805 property, direct or indirect, resulting from the acts of the Contractor, its officers', employees',  
806 agents' or assigns', act(s) in (i) extracting or diverting non-Project water from any source, or (ii)  
807 diverting such non-Project water into Project facilities.

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

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

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OPINIONS AND DETERMINATIONS

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

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

COORDINATION AND COOPERATION

19. (a) In order to further their mutual goals and objectives, the Contracting Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and with other affected Project Contractors, in order to improve the operation and management of the Project. The communication, coordination, and cooperation regarding operations and management shall include, but not be limited to, any action which will or may materially affect the quantity or quality of Project Water supply, the allocation of Project Water supply, and Project financial matters including, but not limited to, budget issues. The communication, coordination, and cooperation provided for hereunder shall extend to all provisions of this

841 Contract. Each party shall retain exclusive decision making authority for all actions, opinions,  
842 and determinations to be made by the respective party.

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

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

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

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

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

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

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

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

872 CHARGES FOR DELINQUENT PAYMENTS

873 20. (a) The Contractor shall be subject to interest, administrative and penalty  
874 charges on delinquent installments or payments. When a payment is not received by the due  
875 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond  
876 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an  
877 administrative charge to cover additional costs of billing and processing the delinquent payment.  
878 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional  
879 penalty charge of six (6%) percent per year for each day the payment is delinquent beyond the  
880 due date. Further, the Contractor shall pay any fees incurred for debt collection services  
881 associated with a delinquent payment.

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

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

890 EQUAL OPPORTUNITY

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

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

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

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

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

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

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

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

936 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

949 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

950 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
951 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the  
952 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights  
953 laws, as well as with their respective implementing regulations and guidelines imposed by the  
954 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

969 PRIVACY ACT COMPLIANCE

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

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

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

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

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

995 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

996 25. In addition to all other payments to be made by the Contractor pursuant to this  
997 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and  
998 detailed statement submitted by the Contracting Officer to the Contractor for such specific items  
999 of direct cost incurred by the United States for work requested by the Contractor associated with  
1000 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies  
1001 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed  
1002 to in writing in advance by the Contractor. This Article shall not apply to costs for routine  
1003 contract administration.

1004 WATER CONSERVATION

1005 26. (a) Prior to the delivery of water provided from or conveyed through  
1006 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor  
1007 shall be implementing an effective water conservation and efficiency program based on the  
1008 Contractor's water conservation plan that has been determined by the Contracting Officer to meet  
1009 the conservation and efficiency criteria for evaluating water conservation plans established under  
1010 Federal law. The water conservation and efficiency program shall contain definite water

1011 conservation objectives, appropriate economically feasible water conservation measures, and  
1012 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this  
1013 Contract shall be contingent upon the Contractor's continued implementation of such water  
1014 conservation program. In the event the Contractor's water conservation plan or any revised water  
1015 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not  
1016 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which  
1017 the Contracting Officer determines are beyond the control of the Contractor, water deliveries  
1018 shall be made under this Contract so long as the Contractor diligently works with the Contracting  
1019 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor  
1020 immediately begins implementing its water conservation and efficiency program in accordance  
1021 with the time schedules therein.

1022           (b)     Should the amount of M&I Water delivered pursuant to subdivision (a) of  
1023 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall  
1024 implement the Best Management Practices identified by the time frames issued by the California  
1025 Urban Water Conservation Council for such M&I Water unless any such practice is determined  
1026 by the Contracting Officer to be inappropriate for the Contractor.

1027           (c)     The Contractor shall submit to the Contracting Officer a report on the  
1028 status of its implementation of the water conservation plan on the reporting dates specified in the  
1029 then existing conservation and efficiency criteria established under Federal law.

1030           (d)     At five-year intervals, the Contractor shall revise its water conservation  
1031 plan to reflect the then-current conservation and efficiency criteria for evaluating water  
1032 conservation plans established under Federal law and submit such revised water management  
1033 plan to the Contracting Officer for review and evaluation. The Contracting Officer will then  
1034 determine if the water conservation plan meets Reclamation's then-current conservation and  
1035 efficiency criteria for evaluating water conservation plans established under Federal law.

1036 (e) If the Contractor is engaged in direct ground-water recharge, such activity  
1037 shall be described in the Contractor's water conservation plan.

1038 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1039 27. Except as specifically provided in Article 17 of this Contract, the provisions of  
1040 this Contract shall not be applicable to or affect non-Project water or water rights now owned or  
1041 hereafter acquired by the Contractor or any user of such water within the Contractor's  
1042 Boundaries. Any such water shall not be considered Project Water under this Contract. In  
1043 addition, this Contract shall not be construed as limiting or curtailing any rights which the  
1044 Contractor or any water user within the Contractor's Boundaries acquires or has available under  
1045 any other contract pursuant to Federal Reclamation law.

1046 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1047 28. (a) The O&M of a portion of the Project facilities which serve the Contractor,  
1048 and responsibility for funding a portion of the costs of such O&M, have been transferred to the  
1049 Operating Non-Federal Entity by separate agreement between the United States and the  
1050 Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the  
1051 rights or obligations of the Contractor or the United States hereunder.

1052 (b) The Contracting Officer has previously notified the Contractor in writing  
1053 that the O&M of a portion of the Project facilities which serve the Contractor has been  
1054 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly  
1055 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer  
1056 under the terms and conditions of the separate agreement between the United States and the  
1057 Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges, or  
1058 assessments of any kind, including any assessment for reserve funds, which the Operating Non-  
1059 Federal Entity or such successor determines, sets, or establishes for the O&M of the portion of  
1060 the Project facilities operated and maintained by the Operating Non-Federal Entity or such  
1061 successor. Such direct payments to the Operating Non-Federal Entity or such successor shall not

1062 relieve the Contractor of its obligation to pay directly to the United States the Contractor's share  
1063 of the Project Rates, Charges, and Tiered Pricing Component(s) except to the extent the  
1064 Operating Non-Federal Entity collects payments on behalf of the United States in accordance  
1065 with the separate agreement identified in subdivision (a) of this Article.

1066 (c) For so long as the O&M of any portion of the Project facilities serving the  
1067 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the  
1068 Contracting Officer shall adjust those components of the Rates for Water Delivered under this  
1069 Contract representing the cost associated with the activity being performed by the Operating  
1070 Non-Federal Entity or its successor.

1071 (d) In the event the O&M of the Project facilities operated and maintained by  
1072 the Operating Non-Federal Entity is re-assumed by the United States during the term of this  
1073 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the  
1074 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the  
1075 Contractor for Project Water under this Contract representing the O&M costs of the portion of  
1076 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the  
1077 absence of written notification from the Contracting Officer to the contrary, pay the Rates,  
1078 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the  
1079 United States in compliance with Article 7 of this Contract.

1080 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1081 29. The expenditure or advance of any money or the performance of any obligation of  
1082 the United States under this Contract shall be contingent upon appropriation or allotment of  
1083 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any  
1084 obligations under this Contract. No liability shall accrue to the United States in case funds are  
1085 not appropriated or allotted.

1086 BOOKS, RECORDS, AND REPORTS

1087 30. (a) The Contractor shall establish and maintain accounts and other books and  
1088 records pertaining to administration of the terms and conditions of this Contract, including: the  
1089 Contractor's financial transactions, water supply data, and Project land and right-of-way  
1090 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use

1091 data; and other matters that the Contracting Officer may require. Reports thereon shall be  
1092 furnished to the Contracting Officer in such form and on such date or dates as the Contracting  
1093 Officer may require. Subject to applicable Federal laws and regulations, each party to this  
1094 Contract shall have the right during office hours to examine and make copies of the other party's  
1095 books and records relating to matters covered by this Contract.

1096 (b) Notwithstanding the provisions of subdivision (a) of this Article, no  
1097 books, records, or other information shall be requested from the Contractor by the Contracting  
1098 Officer unless such books, records, or information are reasonably related to the administration or  
1099 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
1100 time within which to provide the requested books, records, or information.

1101 (c) At such time as the Contractor provides information to the Contracting  
1102 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided  
1103 to the Operating Non-Federal Entity.

1104 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1105 31. (a) The provisions of this Contract shall apply to and bind the successors and  
1106 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1107 therein shall be valid until approved in writing by the Contracting Officer.

1108 (b) The assignment of any right or interest in this Contract by either party  
1109 shall not interfere with the rights or obligations of the other party to this Contract absent the  
1110 written concurrence of said other party.

1111 (c) The Contracting Officer shall not unreasonably condition or withhold his  
1112 approval of any proposed assignment.

1113 SEVERABILITY

1114 32. In the event that a person or entity who is neither (i) a party to a Project contract,  
1115 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)  
1116 an association or other form of organization whose primary function is to represent parties to  
1117 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1118 enforceability of a provision included in this Contract and said person, entity, association, or  
1119 organization obtains a final court decision holding that such provision is legally invalid or  
1120 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),  
1121 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such

1122 final court decision identify by mutual agreement the provisions in this Contract which must be  
1123 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).  
1124 The time periods specified above may be extended by mutual agreement of the parties. Pending  
1125 the completion of the actions designated above, to the extent it can do so without violating any  
1126 applicable provisions of law, the United States shall continue to make the quantities of Project  
1127 Water specified in this Contract available to the Contractor pursuant to the provisions of this  
1128 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1129 RESOLUTION OF DISPUTES

1130 33. Should any dispute arise concerning any provisions of this Contract, or the  
1131 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to  
1132 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting  
1133 Officer referring any matter to Department of Justice, the party shall provide to the other party  
1134 30 days' written notice of the intent to take such action; Provided, That such notice shall not be  
1135 required where a delay in commencing an action would prejudice the interests of the party that  
1136 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer  
1137 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,  
1138 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the  
1139 United States may have.

1140 OFFICIALS NOT TO BENEFIT

1141 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1142 Contractor shall benefit from this Contract other than as a water user or landowner in the same  
1143 manner as other water users or landowners.

1144 CHANGES IN CONTRACTOR'S BOUNDARIES

1145 35. (a) While this Contract is in effect, no change may be made in the  
1146 Contractor's Boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger,  
1147 or otherwise, except upon the Contracting Officer's written consent.

1148 (b) Within 30 days of receipt of a request for such a change, the Contracting  
1149 Officer will notify the Contractor of any additional information required by the Contracting

1150 Officer for processing said request, and both parties will meet to establish a mutually agreeable  
1151 schedule for timely completion of the process. Such process will analyze whether the proposed  
1152 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;  
1153 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or  
1154 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)  
1155 have an impact on any Project Water rights applications, permits, or licenses. In addition, the  
1156 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be  
1157 responsible for all costs incurred by the Contracting Officer in this process, and such costs will  
1158 be paid in accordance with Article 25 of this Contract.

1159 FEDERAL LAWS

1160 36. By entering into this Contract, the Contractor does not waive its rights to contest  
1161 the validity or application in connection with the performance of the terms and conditions of this  
1162 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with  
1163 the terms and conditions of this Contract unless and until relief from application of such Federal  
1164 law or regulation to the implementing provision of the Contract is granted by a court of  
1165 competent jurisdiction.

1166 NOTICES

1167 37. Any notice, demand, or request authorized or required by this Contract shall be  
1168 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
1169 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349  
1170 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when  
1171 mailed, postage prepaid, or delivered to the Board of Directors of the Dunnigan Water District,  
1172 P. O. Box 84, 3817 First Street, Dunnigan, California 95937. The designation of the addressee  
1173 or the address may be changed by notice given in the same manner as provided in this Article for  
1174 other notices.

1175 CONFIRMATION OF CONTRACT

1176 38. The Contractor, after the execution of this Contract, shall promptly seek to secure  
1177 a decree of a court of competent jurisdiction of the State of California, confirming the execution  
1178 of this Contract. The Contractor shall furnish the United States a certified copy of the final  
1179 decree, the validation proceedings, and all pertinent supporting records of the court approving

1180 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on  
1181 the Contractor.

1182 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of  
1183 the day and year first above written.

1184 THE UNITED STATES OF AMERICA

1185 By: \_\_\_\_\_  
1186 Regional Director, Mid-Pacific Region  
1187 Bureau of Reclamation

1188 DUNNIGAN WATER DISTRICT

1189 By: \_\_\_\_\_  
1190 President of the Board of Directors

1191 Attest:

1192 By: \_\_\_\_\_  
1193 Secretary of the Board of Directors

1194 (I:\LTRC\LTRC Drafts\04-19-2004-01 Dunnigan WD Final LTRC Draft Contract.doc)

EXHIBIT A

[Map or Description of Boundaries]

EXHIBIT B  
Rates and Charges  
DUNNIGAN WATER DISTRICT

	2003 Rates Per Acre-Foot	
	<u>Irrigation</u>	<u>M&amp;I</u>
CONTRACT RATE * (1 <sup>st</sup> Tier - ≤80% of Contract Total)	\$14.18	
2 <sup>ND</sup> TIER [>80% ≤90% of Contract Total] (Sec. 202(3) Full Cost Rate + Contract Rate/ 2) **	\$28.42	
3 <sup>RD</sup> TIER [> 90% of Contract Total] (Sec. 202(3) Full Cost Rate) **	\$42.65	
FULL-COST RATES: **		
RRA Section 202(3) rate is applicable to Qualified Recipients or to Limited Recipients receiving irrigation water on or before October 1, 1981.	\$94.85	
RRA Section 205(a)(3) rate is applicable to Limited Recipients that did <u>not</u> receive irrigation water on or before October 1, 1981.	\$98.98	
SURCHARGES UNDER P.L. 102-575 TO RESTORATION FUND***		
Restoration Payments [3407(d)(2)(A)]	\$0.00	

\* Capital component of cost-of-service rate is not included in Contract Rate due to ability to pay relief for Contractor established pursuant to the results of the Payment Capacity Analysis for the Tehama-Colusa Water Users Association Service Area as announced by letter dated February 10, 1995.

\*\* Contractors with 9(d) distribution systems do not have the 9(d) Full Cost component included for tiered pricing calculations. See Article 1(j).

\*\*\* These 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). Contractors with ability to pay relief do not pay Restoration Fund charges for irrigation water.

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