

AG and M&I
R.O. Draft 09/23-2004
R.O. Draft 09/14-2004
R.O. Draft 08/25-2004
R.O. Draft 08/17-2004
R.O. Delta Division 07/30-2004
Contract No.
14-06-200-700-A-LTR1

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
JAMES IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM DELTA DIVISION

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	1
	Explanatory Recitals	2-5
1	Definitions	5-10
2	Term of Contract.....	10-13
3	Water to be Made Available and Delivered to the Contractor	14-18
4	Time for Delivery of Water	18-19
5	Point of Diversion and Responsibility for Distribution of Water	19-21
6	Measurement of Water Within the Contractor's Service Area.....	21-23
7	Rates and Method of Payment for Water.....	23-30
8	Non-Interest Bearing Operation and Maintenance Deficits	30
9	Sales, Transfers, or Exchanges of Water	30-31
10	Application of Payments and Adjustments.....	32
11	Temporary Reductions--Return Flows	32-33
12	Constraints on the Availability of Water	34-36
13	Unavoidable Groundwater Percolation.....	36
14	Rules and Regulations	36
15	Water and Air Pollution Control.....	37
16	Quality of Water	37
17	Water Acquired by the Contractor Other Than From the United States	38-40
18	Opinions and Determinations	40-41
19	Coordination and Cooperation.....	41-42
20	Charges for Delinquent Payments	43

Table of Contents - continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
21	Equal Opportunity.....	43-44
22	General Obligation--Benefits Conditioned Upon Payment.....	44-45
23	Compliance With Civil Rights Laws and Regulations	45
24	Privacy Act Compliance	45-46
25	Contractor to Pay Certain Miscellaneous Costs	46
26	Water Conservation	47-48
27	Existing or Acquired Water or Water Rights.....	48
28	Operation and Maintenance by San Luis & Delta-Mendota Water Authority	49-50
29	Contingent on Appropriation or Allotment of Funds	50-51
30	Books, Records, and Reports.....	51
31	Assignment Limited--Successors and Assigns Obligated	51-52
32	Severability	52
33	Resolution of Disputes.....	53
34	Officials Not to Benefit.....	53
35	Changes in Contractor's Service Area.....	53-54
36	Federal Laws.....	54
37	Notices	54
38	Confirmation of Contract.....	54
	Signature Page	55

Exhibit A - Map of Contractor's Service Area

Exhibit B - Rates and Charges

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7 PROVIDING FOR PROJECT WATER SERVICE
8 FROM DELTA DIVISION

9 THIS CONTRACT, made this ____ day of _____, 2005, in pursuance
10 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,
11 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
12 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
13 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat.
14 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively
15 hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA,
16 hereinafter referred to as the United States, and JAMES IRRIGATION DISTRICT, hereinafter
17 referred to as the Contractor, a public agency of the State of California, duly organized, existing, and
18 acting pursuant to the laws thereof;

19 WITNESSETH, That:

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EXPLANATORY RECITALS

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

[2nd] WHEREAS, the United States constructed the Delta-Mendota Canal and related facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

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

[4th] WHEREAS, the Contractor and the United States entered into Contract No. 14-06-200-700-A, which established terms for the delivery of 9,700 acre-feet of Schedule 2 water as a permanent adjustment and settlement of the Contractors asserted claims of rights to water in Fresno Slough tributary to the San Joaquin River in fulfillment of such rights; and

[5th] WHEREAS, Schedule 2 water is not the subject of this Contract and will continue to be delivered and administered under the terms and conditions of Contract No. 14-06-200-700-A; and

[5.1] WHEREAS, Contract No. 14-06-200-700-A also established the terms for the delivery of 35,300 acre-feet of supplemental water, hereinafter referred to as Project Water, to the Contractor from Delta Division facilities from December 23, 1963, through December 23, 2003; and

41 [5.2] WHEREAS, the Contractor and the United States have pursuant to subsection
42 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
43 interim renewal contract(s) identified as Contract No(s) 14-06-200-700-A-IR1 and 14-06-200-700-A-
44 IR2, the current of which is hereinafter referred to as the Existing Contract, which provided for the
45 delivery of Project Water to the Contractor from December 24, 2003, through February 28, 2005;
46 and

47 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
48 Existing Contract following completion of appropriate environmental documentation, including a
49 programmatic environmental impact statement (PEIS) pursuant to the National Environmental Policy
50 Act (NEPA) analyzing the direct and indirect impacts and benefits of implementing the CVPIA and
51 the potential renewal of all existing contracts for Project Water; and

52 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
53 environmental review necessary to provide for long-term renewal of the terms and conditions for
54 Project Water service under the Existing Contract; and

55 [8th] WHEREAS, the Contractor has requested the long-term renewal for Project Water
56 service, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the
57 State of California, for water service from the Project; and

58 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
59 its obligations under the Existing Contract; and

60 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
61 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and

62 beneficial use and/or has demonstrated projected future demand for water use such that the
63 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the
64 quantity of Project Water to be made available to it pursuant to this Contract; and

65 [11th] WHEREAS, water obtained from the Project has been relied upon by urban and
66 agricultural areas within California for more than 50 years, and is considered by the Contractor as an
67 essential portion of its water supply; and

68 [12th] WHEREAS, the economies of regions within the Project, including the Contractor's,
69 depend upon the continued availability of water, including water service from the Project; and

70 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
71 to pursue measures to improve water supply, water quality, and reliability of the Project for all
72 Project purposes; and

73 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
74 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment
75 of the Project as required by law; to guard reasonably against Project Water shortages; to achieve a
76 reasonable balance among competing demands for use of Project Water; and to comply with all
77 applicable environmental statutes, all consistent with the legal obligations of the United States
78 relative to the Project; and

79 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
80 relationship in order to achieve their mutual goals; and

81 [15.1] WHEREAS, the Contractor has utilized or may utilize transfers, contract assignments,
82 rescheduling and conveyance of Project Water and non-Project water under this Contract as tools to

83 minimize the impacts of Conditions of Shortage and to maximize the beneficial use of water; and
84 [15.2] WHEREAS, the parties desire and intend that this Contract not provide a disincentive
85 to the Contractor in continuing to carry out the beneficial activities set out in the Explanatory Recital
86 immediately above; and

87 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
88 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

91 DEFINITIONS

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

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

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

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

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

104 (e) AContract Total@ shall mean the maximum amount of water to which the
105 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

106 (f) AContractor's Service Area" shall mean the area to which the Contractor is
107 permitted to provide Project Water under this Contract as described in Exhibit AA@ attached hereto,
108 which may be modified from time to time in accordance with Article 35 of this Contract without
109 amendment of this Contract;

110 (g) ACSVPIA@ shall mean the Central Valley Project Improvement Act, Title
111 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

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

117 (h) AEligible Lands@ shall mean all lands to which Irrigation Water may be
118 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982 (96
119 Stat. 1263), as amended, hereinafter referred to as RRA;

120 (i) AExcess Lands@ shall mean all lands in excess of the limitations contained in
121 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
122 Reclamation law;

123 (j) AFull Cost Rate@ shall mean an annual rate, as determined by the Contracting

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

133 (k) AIneligible Lands® shall mean all lands to which Irrigation Water may not be
134 delivered in accordance with Section 204 of the RRA;

Deleted:

135 (l) A Irrigation Full Cost Water Rate® shall mean the Full Cost Rate applicable to
136 the delivery of Irrigation Water;

137 (m) A Irrigation Water® shall mean Project Water that is used primarily in the
138 production of agricultural crops or livestock, including domestic use incidental thereto, and watering
139 of livestock;

140 (n) A Landholder® shall mean a party that directly or indirectly owns or leases
141 nonexempt land, as provided in 43 CFR 426.2;

142 (o) A Municipal and Industrial (M&I) Water® shall mean Project Water, other than
143 Irrigation Water, made available to the Contractor. M&I Water shall include water used for human
144 use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are

145 kept for personal enjoyment or water delivered to landholdings operated in units of less than five
146 acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of
147 water delivered to any such landholding is a use described in subdivision (m) of this Article;

148 (p) AM&I Full Cost Water Rate® shall mean the Full Cost Rate applicable
149 to the delivery of M&I Water;

150 (q) AOperation and Maintenance® or AO&M" shall mean normal and reasonable
151 care, control, operation, repair, replacement (other than capital replacement), and maintenance of
152 Project facilities;

153 (r) AOperating Non-Federal Entity" shall mean the entity(ies), its (their)
154 successors or assigns, which has (have) the obligation to operate and maintain all or a portion of the
155 Delta Division Facilities pursuant to a written agreement(s) with the United States. When this
156 Contract was entered into, the Operating Non-Federal Entity(ies) was (were) the San Luis & Delta-
157 Mendota Water Authority;

158 (s) AProject® shall mean the Central Valley Project owned by the United States and
159 managed by the Department of the Interior, Bureau of Reclamation;

160 (t) AProject Contractors® shall mean all parties who have water service contracts
161 for Project Water from the Project with the United States pursuant to Federal Reclamation law;

162 (u) AProject Water® shall mean all water that is developed, diverted, stored, or
163 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance
164 with the terms and conditions of water rights acquired pursuant to California law; however, Schedule
165 2 Water shall not be considered Project Water for purposes of this Contract;

166 (v) ARates@ shall mean the payments determined annually by the Contracting
167 Officer in accordance with the then current applicable water ratesetting policies for the Project, as
168 described in subdivision (a) of Article 7 of this Contract;

169 (w) ARecent Historic Average@ shall mean the most recent five-year average of the
170 final forecast of Water Made Available to the Contractor pursuant to this Contract or its preceding
171 contract(s);

172 (w.1) "Schedule 2 Water" shall mean that water as so defined under Contract
173 No. 14-06-200-700-A with the United States, which will continue to be delivered and administered
174 under said contract;

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

178 (y) ATiered Pricing Component@ shall be the incremental amount to be paid for
179 each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

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

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

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

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

190 TERM OF CONTRACT

191 2. (a) This Contract shall be effective March 1, 2005, through February 28, 2030.
192 This Contract when effective supersedes that portion of Contract No. 14-06-200-700-A-IR2, dated
193 from March 1, 2004, through February 28, 2005, pertaining to the furnishing of Project Water. In the
194 event the Contractor wishes to renew this Contract beyond February 28, 2030, the Contractor shall
195 submit a request for renewal in writing to the Contracting Officer no later than two years prior to the
196 date this Contract expires. The renewal of this Contract insofar as it pertains to the furnishing of
197 Irrigation Water to the Contractor shall be governed by subdivision (b) of this Article, and the
198 renewal of this Contract insofar as it pertains to the furnishing of M&I Water to the Contractor shall
199 be governed by subdivision (c) of this Article.

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

205 (2) The conditions which must be met for this Contract to be renewed are: (i) the
206 Contractor has prepared a water conservation plan that has been determined by the Contracting
207 Officer in accordance with Article 26 of this Contract to meet the conservation and efficiency criteria
208 for evaluating such plans established under Federal law; (ii) the Contractor is implementing an
209 effective water conservation and efficiency program based on the Contractor's water conservation
210 plan as required by Article 26 of this Contract; (iii) the Contractor is operating and maintaining all
211 water measuring devices and implementing all water measurement methods as approved by the
212 Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has reasonably and
213 beneficially used the Project Water supplies made available to it and, based on projected demands, is
214 reasonably anticipated and expects to fully utilize for reasonable and beneficial use the quantity of
215 Project Water to be made available to it pursuant to such renewal; (v) the Contractor is complying
216 with all terms and conditions of this Contract; and (vi) the Contractor has the physical and legal
217 ability to deliver Project Water.

218 (3) The terms and conditions of the renewal contract described in
219 subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed consistent
220 with the parties' respective legal rights and obligations, and in consideration of all relevant facts and
221 circumstances, as those circumstances exist at the time of renewal, including, without limitation, the
222 Contractor's need for continued delivery of Project Water; environmental conditions affected by
223 implementation of the Contract to be renewed, and specifically changes in those conditions that
224 occurred during the life of the Contract to be renewed; the Secretary's progress toward achieving the

225 purposes of the CVPIA as set out in Section 3402 and in implementing the specific provisions of the
226 CVPIA; and current and anticipated economic circumstances of the region served by the Contractor.

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

235 (d) The Contracting Officer shall make a determination ten years after the date of
236 execution of this Contract, and every five years thereafter during the term of this Contract, of whether
237 a conversion of the relevant portion of this Contract to a contract under subsection 9(d) of the
238 Reclamation Project Act of 1939 can be accomplished pursuant to the Act of July 2, 1956 (70 Stat
239 483). The Contracting Officer shall also make a determination ten years after the date of execution
240 of this Contract and every five years thereafter during the term of this Contract of whether a
241 conversion of the relevant portion of this Contract to a contract under subsection 9(c)(1) of the
242 Reclamation Project Act of 1939 can be accomplished. Notwithstanding any provision of this
243 Contract, the Contractor reserves and shall have all rights and benefits under the Act of July 2, 1956
244 (70 Stat. 483). The Contracting Officer anticipates that during the term of this Contract, all

245 authorized Project construction expected to occur will have occurred, and on that basis the
246 Contracting Officer agrees upon such completion to allocate all costs that are properly assignable to
247 the Contractor, and agrees further that, at any time after such allocation is made, and subject to
248 satisfaction of the condition set out in this subdivision, this Contract shall, at the request of the
249 Contractor, be converted to a contract under subsection 9(d) or 9(c)(1), whichever is applicable of the
250 Reclamation Project Act of 1939, subject to applicable Federal law and under stated terms and
251 conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such
252 conversion to occur shall be a determination by the Contracting Officer that, account being taken of
253 the amount credited to return by the Contractor as provided for under Federal Reclamation law, the
254 remaining amount of construction costs assignable for ultimate return by the Contractor can probably
255 be repaid to the United States within the term of a contract under subsection 9(d) or 9(c)(1),
256 whichever is applicable. If the remaining amount of costs that are properly assignable to the
257 Contractor cannot be determined during the term of this Contract, the Contracting Officer shall notify
258 the Contractor, and provide the reason(s) why such a determination could not be made. Further, the
259 Contracting Officer shall make such a determination as soon thereafter as possible so as to permit,
260 upon request of the Contractor and satisfaction of the conditions set out above, conversion to a
261 contract under subsection 9(d) or 9(c)(1), whichever is applicable. In the event such determination of
262 costs has not been made at a time which allows conversion of this Contract during the term of this
263 Contract or the Contractor has not requested conversion of this Contract within such term, the parties
264 shall incorporate in any subsequent renewal contract as described in subdivision (b) of this Article a
265 provision that carries forth in substantially identical terms the provisions of this subdivision.

266 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

267 3. (a) During each Year, consistent with all applicable State water rights, permits,
268 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this
269 Contract, the Contracting Officer shall make available for delivery to the Contractor 35,300 acre-feet
270 of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in accordance
271 with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of
272 this Contract. Schedule 2 water shall continue to be delivered to the Contractor at no cost pursuant
273 to Contract No. 14-06-200-700-A, dated December 23, 1963, and shall not be subject to the
274 provisions of this Contract, and said Contract No. 14-06-200-700-A shall be in full force and effect
275 insofar as it pertains to the furnishing of Schedule 2 water.

276 (b) Because the capacity of the Project to deliver Project Water has been
277 constrained in recent years and may be constrained in the future due to many factors including
278 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor
279 actually receiving the amount of Project Water set out in subdivision (a) of this Article in any given
280 Year is uncertain. The Contracting Officer’s modeling referenced in the PEIS projected that the
281 Contract Total set forth in this Contract will not be available to the Contractor in many years. During
282 the most recent five years, the Recent Historic Average of Water Made Available to the Contractor
283 was 23,227 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights and obligations
284 of the parties under any provision of this Contract.

285 (c) The Contractor shall utilize the Project Water in accordance with all applicable

286 legal requirements.

287 (c.1) In the event any Project Contractor (other than a Cross Valley Contractor) that
288 receives Project Water through the Delta Division Facilities obtains a contractual agreement that the
289 Contracting Officer shall make Project Water available at a point or points of delivery in or north of
290 the Delta, at the request of the Contractor and upon completion of any required environmental
291 documentation, this Contract shall be amended to provide for deliveries in or north of the Delta on
292 mutually agreeable terms. Such amendments to the Contract shall be limited solely to those changes
293 made necessary by the addition of such alternate points of delivery in or north of the Delta; Provided,
294 That the Contracting Officer's use of the Harvey O. Banks Pumping Plant to deliver Project Water
295 does not trigger this right of amendment.

296 (d) The Contractor shall make reasonable and beneficial use of all water furnished
297 pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu), groundwater
298 banking programs, surface water storage programs, and other similar programs utilizing Project Water
299 or other water furnished pursuant to this Contract conducted within the Contractor's Service Area
300 which are consistent with applicable State law and result in use consistent with Federal Reclamation
301 law will be allowed; Provided, That any direct recharge program(s) is (are) described in the
302 Contractor's water conservation plan submitted pursuant to Article 26 of this Contract; Provided,
303 further, That such water conservation plan demonstrates sufficient lawful uses exist in the Contractor's
304 Service Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be
305 reasonable for such uses and in compliance with Federal Reclamation law. Groundwater recharge
306 programs, groundwater banking programs, surface water storage programs, and other similar programs
307 utilizing Project Water or other water furnished pursuant to this Contract conducted outside the
308 Contractor's Service Area may be permitted upon written approval of the Contracting Officer, which
309 approval will be based upon environmental documentation, Project Water rights, and Project
310 operational concerns. The Contracting Officer will address such concerns in regulations, policies, or
311 guidelines.

312 (e) The Contractor shall comply with requirements applicable to the Contractor in
313 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
314 undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended, that are
315 within the Contractor's legal authority to implement. The Contract No(s) 14-06-200-700-A, 14-06-
316 200-700-A-IR1 and 14-06-200-700-A-IR2, which evidence in excess of 42 years of diversions for

317 irrigation and/or M&I purposes of the quantities of water provided in subdivision (a) of Article 3 of
318 this Contract, will be considered in developing an appropriate baseline for biological assessment(s)
319 prepared pursuant to the ESA, and any other needed environmental review. Nothing herein shall be
320 construed to prevent the Contractor from challenging or seeking judicial relief in a court of competent
321 jurisdiction with respect to any biological opinion or other environmental documentation referred to in
322 this Article.

323 (f) Following the declaration of Water Made Available under Article 4 of this
324 Contract, the Contracting Officer will make a determination whether Project Water, or other water
325 available to the Project, can be made available to the Contractor in addition to the Contract Total under
326 this Article during the Year without adversely impacting other Project Contractors. At the request of
327 the Contractor, the Contracting Officer will consult with the Contractor prior to making such a
328 determination. If the Contracting Officer determines that Project Water, or other water available to the
329 Project, can be made available to the Contractor, the Contracting Officer will announce the availability
330 of such water and shall so notify the Contractor as soon as practical. The Contracting Officer will
331 thereafter meet with the Contractor and other Project Contractors capable of taking such water to
332 determine the most equitable and efficient allocation of such water. If the Contractor requests the
333 delivery of any quantity of such water, the Contracting Officer shall make such water available to the
334 Contractor in accordance with applicable statutes, regulations, guidelines, and policies. Subject to
335 existing long-term contractual commitments, water rights and operational constraints, long-term
336 Project Contractors shall have a first right to acquire such water, including Project Water made
337 available pursuant to Section 215 of the RRA.

338 (g) The Contractor may request permission to reschedule for use during the
339 subsequent Year some or all of the Water Made Available to the Contractor during the current Year,
340 referred to as “rescheduled water.” The Contractor may request permission to use during the current
341 Year a quantity of Project Water which may be made available by the United States to the Contractor
342 during the subsequent Year referred to as “preuse.” The Contracting Officer’s written approval may
343 permit such uses in accordance with applicable statutes, regulations, guidelines, and policies.

344 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
345 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the
346 term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract, during
347 the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its obligations
348 under this Contract and any renewals thereof. Nothing in the preceding sentence shall affect the

349 Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of Article 12 of
350 this Contract or applicable provisions of any subsequent renewal contracts.

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

355 (j) The Contracting Officer shall make reasonable efforts to protect the water
356 rights necessary for the Project and to provide the water available under this Contract. The
357 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
358 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,
359 that the Contracting Officer retains the right to object to the substance of the Contractor's position in
360 such a proceeding; Provided further That in such proceedings the Contracting Officer shall recognize
361 the Contractor has a legal right under the terms of this Contract to use Project Water.

362 TIME FOR DELIVERY OF WATER

363 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall

364 announce the Contracting Officer's expected declaration of the Water Made Available. Such
365 declaration will be expressed in terms of both Water Made Available and the Recent Historic
366 Average and will be updated monthly, and more frequently if necessary, based on then-current
367 operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made
368 Available will be made. The Contracting Officer shall provide forecasts of Project operations and the
369 basis of the estimate, with relevant supporting information, upon the written request of the
370 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer
371 shall provide the Contractor with the updated Recent Historic Average.

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

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

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

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

386 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

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

395 (c) The Contractor shall deliver Irrigation Water in accordance with any
396 applicable land classification provisions of Federal Reclamation law and the associated regulations.
397 The Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless
398 approved in advance by the Contracting Officer.

399 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
400 measured and recorded with equipment furnished, installed, operated, and maintained by the
401 Contracting Officer either directly or indirectly through its written agreement(s) with the Operating
402 Non-Federal Entity(ies), unless undertaken by the Contractor with the consent of the Contracting
403 Officer, at the point or points of delivery established pursuant to subdivision (a) of this Article. Upon
404 the request of either party to this Contract, the Contracting Officer shall investigate, or cause to be
405 investigated by the appropriate Operating Non-Federal Entity(ies), the accuracy of such

406 measurements and shall take any necessary steps to adjust any errors appearing therein. For any
407 period of time when accurate measurements have not been made, the Contracting Officer shall
408 consult with the Contractor and the appropriate Operating Non-Federal Entity(ies), if any, prior to
409 making a final determination of the quantity delivered for that period of time.

410 (e) Absent a separate contrary written agreement with the Contractor, neither the
411 Contracting Officer nor any Operating Non-Federal Entity(ies) shall be responsible for the control,
412 carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
413 Contract beyond the point or points of delivery established pursuant to subdivision (a) of this Article.
414 The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on
415 account of damage or claim of damage of any nature whatsoever for which there is legal
416 responsibility, including property damage, personal injury, or death arising out of or connected with
417 the control, carriage, handling, use, disposal, or distribution of such Water Delivered beyond such
418 point or points of delivery except for any damage or claim arising out of: (i) acts or omissions of the
419 Contracting Officer or any of its officers, employees, agents, and assigns, including the Operating
420 Non-Federal Entity(ies), with the intent of creating the situation resulting in any damage or claim; (ii)
421 willful misconduct of the Contracting Officer or any of its officers, employees, agents, and assigns,
422 including the Operating Non-Federal Entity(ies); (iii) negligence of the Contracting Officer or any of
423 its officers, employees, agents, and assigns including the Operating Non-Federal Entity(ies); or (iv) a
424 malfunction of facilities owned and/or operated by the United States or the Operating Non-Federal
425 Entity(ies).

426 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

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

442 (b) To the extent the information has not otherwise been provided, upon execution
443 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
444 the measurement devices or water measuring methods being used or to be used to implement
445 subdivision (a) of this Article and identifying the agricultural turnouts and the M&I service
446 connections or alternative measurement programs approved by the Contracting Officer, at which such
447 measurement devices or water measuring methods are being used, and, if applicable, identifying the

448 locations at which such devices and/or methods are not yet being used including a time schedule for
449 implementation at such locations. The Contracting Officer shall advise the Contractor in writing
450 within 60 days as to the adequacy, and necessary modifications, if any, of the measuring devices or
451 water measuring methods identified in the Contractor's report and if the Contracting Officer does not
452 respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the
453 Contractor that the measuring devices or methods are inadequate, the parties shall within 60 days
454 following the Contracting Officer's response, negotiate in good faith the earliest practicable date by
455 which the Contractor shall modify said measuring devices and/or measuring methods as required by
456 the Contracting Officer to ensure compliance with subdivision (a) of this Article.

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

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

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

466 RATES AND METHOD OF PAYMENT FOR WATER

467 7. (a) The Contractor shall pay the United States as provided in this Article for all
468 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance

469 with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's
470 then-existing ratesetting policy for M&I Water, which ratesetting policies shall be amended,
471 modified, or superceded only through a public notice and comment procedure; (ii) applicable Federal
472 Reclamation law and associated rules and regulations, or policies; and (iii) other applicable
473 provisions of this Contract. Payments shall be made by cash transaction, electronic funds transfer, or
474 any other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer.
475 The Rates, Charges, and Tiered Pricing Component applicable to the Contractor upon execution of
476 this Contract are set forth in Exhibit "B," as may be revised annually.

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

479 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
480 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period
481 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and
482 the basis for such estimate. The Contractor shall be allowed not less than two months to review and
483 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
484 Officer shall notify the Contractor in writing of the Charges to be in effect during the period
485 October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and
486 such notification shall revise Exhibit "B."

487 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall
488 make available to the Contractor an estimate of the Rates and Tiered Pricing Component for Project
489 Water for the following Year and the computations and cost allocations upon which those Rates are

490 based. The Contractor shall be allowed not less than two months to review and comment on such
491 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer
492 shall provide the Contractor with the final Rates and Tiered Pricing Component to be in effect for the
493 upcoming Year, and such notification shall revise Exhibit "B."

494 (c) At the time the Contractor submits the initial schedule for the delivery of
495 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
496 shall make an advance payment to the United States equal to the total amount payable pursuant to the
497 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
498 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end
499 of the first month and before the end of each calendar month thereafter, the Contractor shall make an
500 advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the
501 Water Scheduled to be delivered pursuant to this Contract during the second month immediately
502 following. Adjustments between advance payments for Water Scheduled and payments at Rates due
503 for Water Delivered shall be made before the end of the following month; Provided, That any revised
504 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the
505 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with
506 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered
507 to the Contractor in advance of such payment. In any month in which the quantity of Water
508 Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid
509 for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and
510 until an advance payment at the Rates then in effect for such additional Project Water is made. Final

511 adjustment between the advance payments for the Water Scheduled and payments for the quantities
512 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable
513 but no later than April 30th of the following Year, or 60 days after the delivery of Project Water
514 rescheduled under subdivision (g) of Article 3 of this Contract if such water is not delivered by the
515 last day of February.

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

529 (e) The Contractor shall pay for any Water Delivered under subdivision (a), (f), or
530 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable

531 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;

532 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall

533 be no more than the otherwise applicable Rate for Irrigation Water or M&I Water under subdivision

534 (a) of this Article.

535 (f) Payments to be made by the Contractor to the United States under this

536 Contract may be paid from any revenues available to the Contractor.

537 (g) All revenues received by the United States from the Contractor relating to the

538 delivery of Project Water or the delivery of non-Project water through Project facilities shall be

539 allocated and applied in accordance with Federal Reclamation law and the associated rules or

540 regulations, and the then current Project ratesetting policies for M&I Water or Irrigation Water.

541 (h) The Contracting Officer shall keep its accounts pertaining to the administration

542 of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal

543 standards, so as to reflect the application of Project costs and revenues. The Contracting Officer

544 shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all

545 Project and Contractor expense allocations, the disposition of all Project and Contractor revenues,

546 and a summary of all water delivery information. The Contracting Officer and the Contractor shall

547 enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings,

548 reports, or information.

549 (i) The parties acknowledge and agree that the efficient administration of this

550 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,

551 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component, and/or

552 for making and allocating payments, other than those set forth in this Article may be in the mutual
553 best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify
554 the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect
555 without amending this Contract.

556 (j) (1) Beginning at such time as deliveries of Project Water in a Year exceed
557 80 percent of the Contract Total, then before the end of the month following the month of delivery
558 the Contractor shall make an additional payment to the United States equal to the applicable Tiered
559 Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in excess of
560 80 percent of the Contract Total, but less than or equal to 90 percent of the Contract Total, shall equal
561 one-half of the difference between the Rate established under subdivision (a) of this Article and the
562 Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable. The Tiered
563 Pricing Component for the amount of Water Delivered which exceeds 90 percent of the Contract
564 Total shall equal the difference between (i) the Rate established under subdivision (a) of this Article
565 and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable.
566 For all Water Delivered pursuant to subdivision (a) of Article 3 of this Contract which is in excess of
567 80 percent of the Contract Total, this increment shall be deemed to be divided between Irrigation
568 Water and M&I Water in the same proportion as actual deliveries of each bear to the cumulative total
569 Water Delivered.

570 (2) Subject to the Contracting Officer's written approval, the Contractor
571 may request and receive an exemption from such Tiered Pricing Component for Project Water
572 delivered to produce a crop which the Contracting Officer determines will provide significant and

573 quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced;
574 Provided, That the exemption from the Tiered Pricing Component for Irrigation Water shall apply
575 only if such habitat values can be assured consistent with the purposes of the CVPIA through binding
576 agreements executed with or approved by the Contracting Officer prior to use of such water.

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

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

590 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
591 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates, in
592 accordance with the applicable Project ratesetting policy, adjusted upward or downward to reflect the
593 changed costs, if any, incurred by the Contracting Officer in the delivery of the transferred Project

594 Water to the transferee's point of delivery in accordance with the then applicable Project ratesetting
595 policy. If the Contractor is receiving lower Rates and Charges because of inability to pay and is
596 transferring Project Water to another entity whose Rates and Charges are not adjusted due to inability
597 to pay, the Rates and Charges for transferred Project Water shall not be adjusted to reflect the
598 Contractor's inability to pay.

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

601 (n) Omitted

602 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

606 SALES, TRANSFERS, OR EXCHANGES OF WATER

607 9. (a) The right to receive Project Water provided for in this Contract may be sold,
608 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if
609 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable
610 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this
611 Contract may take place without the prior written approval of the Contracting Officer, except as
612 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be
613 approved absent all appropriate environmental documentation, including but not limited to,

614 documents prepared pursuant to the NEPA and ESA. Such environmental documentation should
615 include, as appropriate, an analysis of groundwater impacts and economic and social effects,
616 including environmental justice, of the proposed water transfers on both the transferor and transferee.

617 (b) In order to facilitate efficient water management by means of water transfers of
618 the type historically carried out among Project Contractors located within the same geographical area
619 and to allow the Contractor to participate in an accelerated water transfer program during the term of
620 this Contract, the Contracting Officer shall prepare, as appropriate, all necessary environmental
621 documentation, including but not limited to documents prepared pursuant to NEPA and ESA,
622 analyzing annual transfers within such geographical areas and the Contracting Officer shall
623 determine whether such transfers comply with applicable law. Following the completion of the
624 environmental documentation, such transfers addressed in such documentation shall be conducted
625 with advance notice to the Contracting Officer, but shall not require prior written approval by the
626 Contracting Officer. Such environmental documentation and the Contracting Officer's compliance
627 determination shall be reviewed every five years and updated, as necessary, prior to the expiration of
628 the then existing five-year period. All subsequent environmental documentation shall include an
629 alternative to evaluate not less than the quantity of Project Water historically transferred within the
630 same geographical area.

631 (c) For a water transfer to qualify under subdivision (b) of this Article, such water
632 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three years, for
633 M&I use, groundwater recharge, groundwater banking, or similar groundwater activities, surface
634 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to

635 established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur within a single
636 Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through existing
637 facilities with no new construction or modifications to facilities and be between existing Project
638 Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply
639 with all applicable Federal, State, and local or tribal laws and requirements imposed for protection of
640 the environment and Indian Trust Assets, as defined under Federal law.

641 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

653 (b) All advances for miscellaneous costs incurred for work requested by the
654 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when
655 the work has been completed. If the advances exceed the actual costs incurred, the difference will be

656 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will
657 be billed for the additional costs pursuant to Article 25.

658 TEMPORARY REDUCTIONS--RETURN FLOWS

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

664 (b) The Contracting Officer or Operating Non-Federal Entity(ies) may temporarily
665 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the
666 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project
667 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far
668 as feasible the Contracting Officer or Operating Non-Federal Entity(ies) will give the Contractor due
669 notice in advance of such temporary discontinuance or reduction, except in case of emergency, in
670 which case no notice need be given; Provided, That the United States shall use its best efforts to
671 avoid any discontinuance or reduction in such service. Upon resumption of service after such
672 reduction or discontinuance, and if requested by the Contractor, the United States will, if possible,
673 deliver the quantity of Project Water which would have been delivered hereunder in the absence of
674 such discontinuance or reduction.

675 (c) The United States reserves the right to all seepage and return flow water
676 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the

677 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United
678 States any right to seepage or return flow being put to reasonable and beneficial use pursuant to this
679 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or
680 under the Contractor.

681 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

692 (c) In any Year in which there may occur a Condition of Shortage for any of the
693 reasons specified in subdivision (b) of this Article, and subject to subdivision (d) of this Article, the
694 Contracting Officer will first allocate the available Project Water consistent with the Central Valley
695 Project M&I Water Shortage Policy in its form on the effective date of this Contract for determining

696 the amount of Project Water available for delivery to the Project Contractors. Subject to the
697 foregoing allocation, in any year in which there may occur a Condition of Shortage, the Contracting
698 Officer shall then apportion Project Water among the Contractor and others entitled to Project Water
699 from Delta Division Facilities under long-term water service or repayment contracts (or renewals
700 thereof or binding commitments therefor) in force on February 28, 2005, as follows:

701 (1) The Contracting Officer shall make an initial and subsequent
702 determination as necessary of the total quantity of Project Water estimated to be scheduled or
703 actually scheduled under subdivision (b) of Article 4 of this Contract and under all other long-term
704 water service or repayment contracts then in force for the delivery of Project Water by the United
705 States from Delta Division Facilities during the relevant Year, the quantity so determined being
706 hereinafter referred to as the scheduled total;

707 (2) A determination shall be made of the total quantity of Project Water
708 that is available for meeting the scheduled total, the quantity so determined being hereinafter referred
709 to as the available supply;

710 (3) The total quantity of Project Water estimated to be scheduled or
711 actually scheduled by the Contractor during the relevant Year, under subdivision (b) of Article 4
712 hereof, shall be divided by the scheduled total, the quotient thus obtained being hereinafter referred to
713 as the Contractor's proportionate share; and

714 (4) The available supply shall be multiplied by the Contractor's
715 proportionate share and the result shall be the quantity of Project Water made available by the United
716 States to the Contractor for the relevant Year in accordance with the schedule developed by the

717 Contracting Officer under subdivision (c)(1) of this Article, but in no event shall such amount exceed
718 the Contract Total. In the event the Contracting Officer subsequently determines that the Contracting
719 Officer can increase or needs to decrease the available supply for delivery from Delta Division
720 Facilities to long-term water service and repayment Contractors during the relevant Year, such

721 additions or reductions to the available supply shall be apportioned consistent with subparagraphs (1)
722 through (4), inclusive.

723 (d) By entering into this Contract, the Contractor does not waive any legal rights
724 or remedies it may have to file or participate in any administrative or judicial proceeding contesting
725 (i) the sufficiency of the Central Valley Project M&I Water Shortage Policy; (ii) the substance of
726 such a policy; (iii) the applicability of such a policy; or (iv) the manner in which such policy is
727 implemented in order to allocate Project Water between municipal and industrial and irrigation
728 purposes; Provided, that the Contractor has commenced any such judicial challenge or any
729 administrative procedures necessary to institute any judicial challenge within six months of the policy
730 becoming final. By agreeing to the foregoing, the Contracting Officer does not waive any legal
731 defenses or remedies that it may have to assert in such a proceeding. Nothing contained herein shall
732 be interpreted to validate or invalidate the Central Valley Project M&I Water Shortage Policy.

733 UNAVOIDABLE GROUNDWATER PERCOLATION

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

737 the delivery of Irrigation Water by the Contractor to Eligible Lands.

738 RULES AND REGULATIONS

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

743 WATER AND AIR POLLUTION CONTROL

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

747 QUALITY OF WATER

748 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to
749 this Contract shall be operated and maintained to enable the United States to deliver Project Water to
750 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act
751 of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat.
752 3050) or other existing Federal laws. The United States is under no obligation to construct or furnish
753 water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor
754 pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the
755 Contractor pursuant to this Contract. None of the foregoing affects or modifies the obligations of the
756 United States under Contract No. 14-06-200-700-A dated December 23, 1963, with respect to
757 Schedule 2 water, including but not limited to, Article 10 of said contract.

758 (b) The O&M of Project facilities shall be performed in such manner as is
759 practicable to maintain the quality of raw water made available through such facilities at the highest

760 level reasonably attainable as determined by the Contracting Officer. The Contractor shall be
761 responsible for compliance with all State and Federal water quality standards applicable to surface
762 and subsurface agricultural drainage discharges generated through the use of Federal or Contractor
763 facilities or Project Water provided by the Contractor within the Contractor's Service Area.

764 WATER ACQUIRED BY THE CONTRACTOR OTHER
765 THAN FROM THE UNITED STATES

766 17. (a) Water or water rights now owned or hereafter acquired by the Contractor other
767 than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may
768 be simultaneously transported through the same distribution facilities of the Contractor subject to the
769 following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were
770 constructed without funds made available pursuant to Federal Reclamation law, the provisions of
771 Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation
772 Water; (ii) the eligibility of land to receive Irrigation Water must be established through the
773 certification requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part
774 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area can be
775 established and the quantity of Irrigation Water to be utilized is less than or equal to the quantity
776 necessary to irrigate such Eligible Lands. The Contractor and the Contracting Officer concur that, as
777 of the effective date of this Contract, the Contractor has a distribution system that was constructed
778 without the use of federally financed funds.

779 (b) Water or water rights now owned or hereafter acquired by the Contractor,

780 other than from the United States may be stored, conveyed and/or diverted through Project facilities,
781 subject to the completion of appropriate environmental documentation, with the approval of the
782 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
783 necessary, consistent with the following provisions:

784 (1) The Contractor may introduce non-Project water into Project facilities
785 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,
786 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an
787 appropriate rate as determined by the applicable Project ratesetting policy, the RRA, and the Project
788 use power policy, if such Project use power policy is applicable, each as amended, modified or
789 superceded from time to time.

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

795 (3) Neither the United States nor the Operating Non-Federal Entity(ies)
796 shall be responsible for control, care or distribution of the non-Project water before it is introduced
797 into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to
798 defend and indemnify the United States and the Operating Non-Federal Entity(ies), and their
799 respective officers, agents, and employees, from any claim for damage to persons or property, direct

800 or indirect, resulting from the act(s) of the Contractor, its officers, employees, agents, or assigns, in
801 (i) extracting or diverting non-Project water from any source, or (ii) diverting such non-Project water
802 into Project facilities.

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

806 (5) After Project purposes are met, as determined by the Contracting
807 Officer, the United States and Project Contractors entitled to Project Water from Delta Division
808 Facilities shall share priority to utilize the remaining capacity of the facilities declared to be available
809 by the Contracting Officer for conveyance and transportation of non-Project water prior to any such
810 remaining capacity being made available to non-Project contractors. Other Project Contractors shall
811 have a second priority to any remaining capacity of facilities declared to be available by the
812 Contracting Officer for conveyance and transportation of non-Project water prior to any such
813 remaining capacity being made available to non-Project contractors.

814 OPINIONS AND DETERMINATIONS

815 18. (a) Where the terms of this Contract provide for actions to be based upon the
816 opinion or determination of either party to this Contract, said terms shall not be construed as
817 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
818 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly

819 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
820 unreasonable opinion or determination. Each opinion or determination by either party shall be
821 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall
822 affect or alter the standard of judicial review applicable under Federal law to any opinion or
823 determination implementing a specific provision of Federal law embodied in statute or regulation.

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

829 COORDINATION AND COOPERATION

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

839 (b) Within 120 days following the effective date of this Contract, the Contractor,

840 other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested
841 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be
842 amended as necessary separate and apart from this Contract. The goal of this process shall be to
843 provide, to the extent practicable, the means of mutual communication and interaction regarding
844 significant decisions concerning Project operation and management on a real-time basis.

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

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

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

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

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

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

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

866 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

884 EQUAL OPPORTUNITY

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

886 (a) The Contractor will not discriminate against any employee or applicant for
887 employment because of race, color, religion, sex, or national origin. The Contractor will take
888 affirmative action to ensure that applicants are employed, and that employees are treated during
889 employment, without regard to their race, color, religion, sex, or national origin. Such action shall
890 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;
891 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of

892 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
893 conspicuous places, available to employees and applicants for employment, notices to be provided by
894 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

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

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

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

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

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

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

928 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

941 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

942 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
943 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
944 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as
945 well as with their respective implementing regulations and guidelines imposed by the U.S.
946 Department of the Interior and/or Bureau of Reclamation.

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

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

960

PRIVACY ACT COMPLIANCE

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

966 (b) With respect to the application and administration of the criminal penalty
967 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible
968
969 for maintaining the certification and reporting records referenced in (a) above are considered to be
970 employees of the Department of the Interior. See 5 U.S.C. 552a(m).

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

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

980 (e) The Contractor shall forward promptly to the System Manager each proposed
981 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR
982 2.71; notify the requester accordingly of such referral; and provide the System Manager with
983 information and records necessary to prepare an appropriate response to the requester. These
984 requirements do not apply to individuals seeking access to their own certification and reporting forms
985 filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy
986 Act as a basis for the request.

987

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

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

996 WATER CONSERVATION

997 26. (a) Prior to the delivery of water provided from or conveyed through Federally
998 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
999 implementing an effective water conservation and efficiency program based on the Contractor's water
1000 conservation plan that has been determined by the Contracting Officer to meet the conservation and
1001 efficiency criteria for evaluating water conservation plans established under Federal law. The water
1002 conservation and efficiency program shall contain definite water conservation objectives, appropriate
1003 economically feasible water conservation measures, and time schedules for meeting those objectives.
1004 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
1005 continued implementation of such water conservation program. In the event the Contractor's water
1006 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
1007 Article 26 of this Contract have not yet been determined by the Contracting Officer to meet such
1008 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the
1009 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently
1010 works with the Contracting Officer to obtain such determination at the earliest practicable date, and
1011 thereafter the Contractor immediately begins implementing its water conservation and efficiency

1012 program in accordance with the time schedules therein.

1013 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1014 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement
1015 the Best Management Practices identified by the time frames issued by the California Urban Water

1016 Conservation Council for such M&I Water unless any such practice is determined by the Contracting
1017 Officer to be inappropriate for the Contractor.

1018 (c) The Contractor shall submit to the Contracting Officer a report on the status of
1019 its implementation of the water conservation plan on the reporting dates specified in the then existing
1020 conservation and efficiency criteria established under Federal law.

1021 (d) At five-year intervals, the Contractor shall revise its water conservation plan to
1022 reflect the then current conservation and efficiency criteria for evaluating water conservation plans
1023 established under Federal law and submit such revised water management plan to the Contracting
1024 Officer for review and evaluation. The Contracting Officer will then determine if the water
1025 conservation plan meets Reclamation's then current conservation and efficiency criteria for
1026 evaluating water conservation plans established under Federal law.

1027 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall
1028 be described in the Contractor's water conservation plan.

1029 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1030 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
1031 Contract shall not be applicable to or affect non-Project water or water rights now owned or hereafter

1032 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such
1033 water shall not be considered Project Water under this Contract. In addition, this Contract shall not
1034 be construed as limiting or curtailing any rights which the Contractor or any water user within the
1035 Contractor's Service Area acquires or has available under any other contract pursuant to Federal
1036 Reclamation law.

1037 OPERATION AND MAINTENANCE BY
1038 SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

1039 28. (a) The O&M of a portion of the Project facilities which serve the Contractor, and
1040 responsibility for funding a portion of the costs of such O&M, have been transferred to the San Luis
1041 & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement (8-07-
1042 20-X0354) between the United States and the Operating Non-Federal Entity San Luis & Delta-
1043 Mendota Water Authority. That separate agreement shall not interfere with or affect the rights or
1044 obligations of the Contractor or the United States hereunder.

1045 (b) The Contracting Officer has previously notified the Contractor in writing that
1046 the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has
1047 been transferred to the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority,
1048 and therefore, the Contractor shall pay directly to the Operating Non-Federal Entity San Luis &
1049 Delta-Mendota Water Authority, or to any successor approved by the Contracting Officer under the
1050 terms and conditions of the separate agreement between the United States and the Operating Non-
1051 Federal Entity San Luis & Delta-Mendota Water Authority described in subdivision (a) of this
1052 Article, all rates, charges, or assessments of any kind, including any assessment for reserve funds,
1053 which the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or such

1054 successor determines, sets, or establishes for the O&M of the portion of the Project facilities operated
1055 and maintained by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or
1056 such successor. Such direct payments to the Operating Non-Federal Entity San Luis & Delta-
1057 Mendota Water Authority or such successor shall not relieve the Contractor of its obligation to pay
1058 directly to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing
1059 Component except to the extent the Operating Non-Federal Entity San Luis & Delta-Mendota Water
1060 Authority collects payments on behalf of the United States in accordance with the separate agreement
1061 identified in subdivision (a) of this Article.

1062 (c) For so long as the O&M of any portion of the Project facilities serving the
1063 Contractor is performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water
1064 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the
1065 Rates for Water Delivered under this Contract representing the cost associated with the activity being
1066 performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or its
1067 successor.

1068 (d) In the event the O&M of the Project facilities operated and maintained by the
1069 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by the
1070 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,
1071 in writing, and present to the Contractor a revised Exhibit AB[®] which shall include the portion of the
1072 Rates to be paid by the Contractor for Project Water under this Contract representing the O&M costs
1073 of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter,
1074 in the absence of written notification from the Contracting Officer to the contrary, pay the Rates,

1075 Charges, and Tiered Pricing Component specified in the revised Exhibit “B” directly to the United
1076 States in compliance with Article 7 of this Contract.

1077 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1078 29. The expenditure or advance of any money or the performance of any obligation of the
1079 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1080 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1081 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1082 or allotted.

1083 BOOKS, RECORDS, AND REPORTS

1084 30. (a) The Contractor shall establish and maintain accounts and other books and
1085 records pertaining to administration of the terms and conditions of this Contract, including: the
1086 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
1087 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other
1088 matters that the Contracting Officer may require. Reports thereon shall be furnished to the
1089 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
1090 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right
1091 during office hours to examine and make copies of the other party's books and records relating to
1092 matters covered by this Contract.

1093 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,
1094 records, or other information shall be requested from the Contractor by the Contracting Officer unless
1095 such books, records, or information are reasonably related to the administration or performance of
1096 this Contract. Any such request shall allow the Contractor a reasonable period of time within which
1097 to provide the requested books, records, or information.

1098 (c) At such time as the Contractor provides information to the Contracting Officer
1099 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the
1100 Operating Non-Federal Entity.

1101 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1123 law, the United States shall continue to make the quantities of Project Water specified in this
1124 Contract available to the Contractor pursuant to the provisions of this Contract which were not found
1125 to be legally invalid or unenforceable in the final court decision.

1126 RESOLUTION OF DISPUTES

1127 33. Should any dispute arise concerning any provisions of this Contract, or the parties=
1128 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
1129 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
1130 any matter to the Department of Justice, the party shall provide to the other party 30 days' written
1131 notice of the intent to take such action; Provided, That such notice shall not be required where a
1132 delay in commencing an action would prejudice the interests of the party that intends to file suit.
1133 During the 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in
1134 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
1135 waive or abridge any right or remedy that the Contractor or the United States may have.

1136 OFFICIALS NOT TO BENEFIT

1137 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1138 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1139 manner as other water users or landowners.

1140 CHANGES IN CONTRACTOR'S SERVICE AREA

1141 35. (a) While this Contract is in effect, no change may be made in the Contractor's
1142 Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
1143 except upon the Contracting Officer's written consent.

1144 | _____(b) Within 30 days of receipt of a request for such a change, the Contracting
1145 Officer will notify the Contractor of any additional information required by the Contracting Officer

1146 for processing said request, and both parties will meet to establish a mutually agreeable schedule for
1147 timely completion of the process. Such process will analyze whether the proposed change is likely
1148 to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of
1149 the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-
1150 constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project
1151 Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with
1152 the NEPA and the ESA. The Contractor will be responsible for all costs incurred by the Contracting
1153 Officer in this process, and such costs will be paid in accordance with Article 25 of this Contract.

1154 FEDERAL LAWS

1155 36. By entering into this Contract, the Contractor does not waive its rights to contest the
1156 validity or application in connection with the performance of the terms and conditions of this
1157 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
1158 terms and conditions of this Contract unless and until relief from application of such Federal law or
1159 regulation to the implementing provision of the Contract is granted by a court of competent
1160 jurisdiction.

1161 NOTICES

1162 37. Any notice, demand, or request authorized or required by this Contract shall be
1163 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1164 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721,
1165 and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
1166 Directors of the James Irrigation District, P.O. Box 757, San Joaquin, California 93660. The
1167 designation of the addressee or the address may be changed by notice given in the same manner as
1168 provided in this Article for other notices.

1169 CONFIRMATION OF CONTRACT

1170 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a
1171 decree of a court of competent jurisdiction of the State of California, confirming the execution of this
1172 Contract. The Contractor shall furnish the United States a certified copy of the final decree, the
1173 validation proceedings, and all pertinent supporting records of the court approving and confirming
1174 this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

1175 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day
1176 and year first above written.

1177 THE UNITED STATES OF AMERICA

1178 By: _____
1179 Regional Director, Mid-Pacific Region
1180 Bureau of Reclamation

1181 (SEAL)

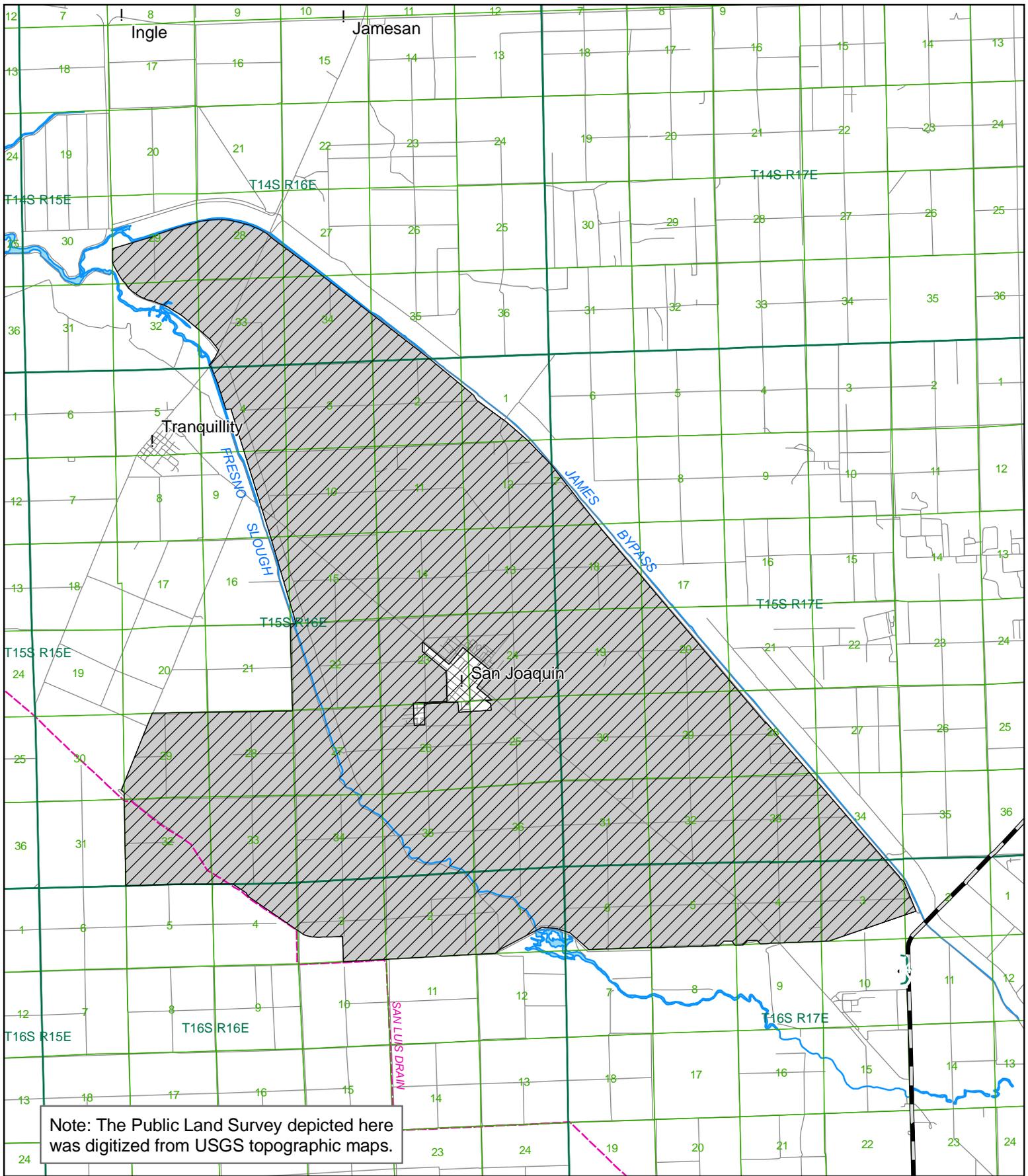
1182 JAMES IRRIGATION DISTRICT

1183 By: _____
1184 President of the Board of Directors

1185 Attest:

1186 By: _____
1187 Secretary of the Board of Directors

1188 (H:\pub 440\LTRC\Final Draft LTRC's – Fresno, Tracy\09-23-04 James ID Final Draft LTRC with
1189 exhibhits.doc)



Note: The Public Land Survey depicted here was digitized from USGS topographic maps.

-  Contractor's Service Area
-  District Boundary

James Irrigation District

Contract No. 14-06-200-700A-LTR1
Exhibit A



EXHIBIT B
JAMES IRRIGATION DISTRICT
Water Rates and Charges

<u>Cost-of-Service Rates</u>	<u>Irrigation Water</u>	<u>M&I Water 1/</u>
Capital Rates	\$ 11.12	
O&M Rates:		
Water Marketing	7.59	
Storage	5.83	
Conveyance	2/	
Conveyance Pumping	2/	
Deficit Rates:		
Non-Interest Bearing	N/A	
Interest Bearing	.03	
CFO/PFR Adj. Rate 4/	1.26	
<u>TOTAL COST-OF-SERVICE RATES</u>	<u>25.84</u>	

RRA Full Cost Rates:

Section 202(3) Rate is applicable to a
Qualified Recipient or to a Limited
Recipient receiving irrigation water
on or before October 1, 1981

\$ 38.86

Section 205(a)(3) - Rate is applicable to a
Limited Recipient that did not receive
irrigation water on or before October 1, 1981

\$ 45.89

Charges Under P.L. 102-575 to Restoration Fund 5/ \$ 7.82

1/ To be provided as needed. Contractor does not currently receive M&I water and is not projected to take any in the near future.

2/ Costs are direct billed by Operating Non-Federal Entity

3/ Will be recovered by separate agreement - See Article 8

4/ Rate represents Chief Financial Officers (CFO) adjustment and Provisions for Replacement (PFR) credit for option 2 cost deferral to be distributed over 5-year period beginning with 2003 water rates.

5/ Restoration fund charges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund charges are on a fiscal year basis (10/1-9/30).