

M&I Only
 R. O. CVP-Wide Draft 4/19-2004
 Keswick Draft 3/01-2004
 Keswick Draft 7/22-2003
 Keswick Draft 7/18-2003
 Keswick Draft 6/27-2003
 Shasta/Trinity Division Draft 6/16-2003
 CVP-Wide Draft 5/23-2003
 Contract No.
 14-06-200-1307A-LTR1

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
SHASTA COUNTY FOR THE BENEFIT OF
COUNTY SERVICE AREA NO. 25 -- KESWICK
PROVIDING FOR PROJECT WATER SERVICE
FROM THE TRINITY RIVER DIVISION

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THIS CONTRACT, made this _____ day of _____, 20____, in
pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as
amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2,
1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986
(100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all
collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES
OF AMERICA, hereinafter referred to as the United States, and SHASTA COUNTY for the benefit
of COUNTY SERVICE AREA NUMBER 25 -- KESWICK, hereinafter referred to as the
Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant
to the laws thereof;

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 Spring Creek Power Conduit which will be used 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. 14-06-200-1307A, which established terms for the delivery to the Contractor of Project Water from the Trinity River Division from September 16, 1964, through June 30, 2005, hereinafter referred to as the “Existing Contract”; and

[5th] WHEREAS, the United States and the Contractor have, pursuant to subsection 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into a binding agreement identified as Binding Agreement No. 14-06-200-1307A-BA, which sets out the terms pursuant to which the Contractor agreed to renew the Existing Contract before its expiration date after completion of a programmatic environmental impact statement and other appropriate environmental documentation and negotiation of a renewal contract, and which also sets out the consequences of a subsequent decision not to renew; and

[6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the Existing Contract following completion of appropriate environmental documentation, including a programmatic environmental impact statement (PEIS) pursuant to the National Environmental

49 Policy Act (NEPA), analyzing the direct and indirect impacts and benefits of implementing the
50 CVPIA and the potential renewal of all existing contracts for Project Water; and

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

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

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

58 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
59 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
60 reasonable and beneficial use and/or has demonstrated projected future demand for water use
61 such that the Contractor has the capability and expects to utilize fully for reasonable and
62 beneficial use the quantity of Project Water to be made available to it pursuant to this Contract;
63 and

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

67 [12th] WHEREAS, the economies of regions within the Project, including the
68 Contractor's, depend upon the continued availability of water, including water service from the
69 Project; and

70 [12.1] WHEREAS, the Contractor has made and will continue to make substantial
71 capital investments in diversion and treatment facilities, and requires a consistent, predictable
72 quality of raw water in order to meet Safe Drinking Water Act requirements for its municipal
73 customers, and to provide a consistent and predictable quality of water for its industrial
74 customers; and

75 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and
76 partnerships to pursue measures to improve water supply, water quality, and reliability of the
77 Project for all Project purposes; and

78 [13.1] WHEREAS, the Contractor is located in the region of the Redding Groundwater
79 Basin, and it is the desire of both the United States and the Contractor to facilitate the
80 cooperative efforts of local water service agencies to develop the Redding Groundwater Basin
81 for conjunctive management and use with Project Water supplies, to maximize the reasonable
82 beneficial use of water for the water service agencies and their customers in the region; and

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

89 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
90 relationship in order to achieve their mutual goals; and

91 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
92 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

95 DEFINITIONS

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

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

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

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

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

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

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

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

117 (h) Omitted;

118 (i) Omitted;

119 (j) "Full Cost Rate" shall mean an annual rate as determined by the
120 Contracting Officer that shall amortize the expenditures for construction properly allocable to the
121 Project irrigation or M&I functions, as appropriate, of facilities in service including all O&M
122 deficits funded, less payments, over such periods as may be required under Federal Reclamation
123 law, or applicable contract provisions. Interest will accrue on both the construction expenditures
124 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the

125 date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated
126 in accordance with subsections 202(3)(B) and (3)(C) of the Reclamation Reform Act of
127 October 12, 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA. The Full Cost
128 Rate includes actual operation, maintenance, and replacement costs consistent with Section 426.2
129 of the Rules and Regulations for the RRA;

130 (k) Omitted;

131 (l) Omitted;

132 (m) Omitted;

133 (n) Omitted;

134 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water made
135 available to the Contractor for purposes other than the commercial production of agricultural
136 crops or livestock;

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

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

142 (r) Omitted;

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

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

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

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

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

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

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

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

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

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

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

173 TERM OF CONTRACT

174 2. (a) This Contract shall be effective March 1, 20___, through February 28,
175 20___, and supercedes the Existing Contract. In the event the Contractor wishes to renew this

176 Contract beyond February 28, 20____, the Contractor shall submit a request for renewal in writing
177 to the Contracting Officer no later than two years prior to the date this Contract expires.

178 (b) Omitted.

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

186 (d) The Contracting Officer shall make a determination ten years after the
187 date of execution of this Contract, and every five years thereafter during the term of this
188 Contract, of whether a conversion to a contract under subsection (c)(1) of Section 9 of the
189 Reclamation Project Act of 1939 can be accomplished. The Contracting Officer anticipates that
190 during the term of this Contract, all authorized Project construction expected to occur will have
191 occurred, and on that basis the Contracting Officer agrees upon such completion to allocate all
192 costs that are properly assignable to the Contractor, and agrees further that, at any time after such
193 allocation is made, and subject to satisfaction of the condition set out in this subdivision, this
194 Contract shall, at the request of the Contractor, be converted to a contract under said subsection
195 9(c)(1), of the Reclamation Project Act of 1939, subject to applicable Federal law and under
196 stated terms and conditions mutually agreeable to the Contractor and the Contracting Officer. A
197 condition for such conversion to occur shall be a determination by the Contracting Officer that,
198 account being taken of the amount credited to return by the Contractor as provided for under
199 Federal Reclamation law, the remaining amount of construction costs assignable for ultimate

200 return by the Contractor can probably be repaid to the United States within the term of a contract
201 under said subsection 9(c)(1). If the remaining amount of costs that are properly assignable to
202 the Contractor cannot be determined during the term of this Contract, the Contracting Officer
203 shall notify the Contractor, and provide the reason(s) why such a determination could not be
204 made. Further, the Contracting Officer shall make such a determination as soon thereafter as
205 possible so as to permit, upon request of the Contractor and satisfaction of the condition set out
206 above, conversion to a contract under said subsection 9(c)(1). In the event such determination of
207 costs has not been made at a time which allows conversion of this Contract during the term of
208 this Contract or the Contractor has not requested conversion of this Contract within such term,
209 the parties shall incorporate in any subsequent renewal contract as described in subdivision (b) of
210 this Article a provision that carries forth in substantially identical terms the provisions of this
211 subdivision.

212 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

213 3. (a) During each Year, consistent with all applicable State water rights,
214 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of
215 this Contract, the Contracting Officer shall make available for delivery to the Contractor 500
216 acre-feet of Project Water for M&I purposes. Provided, That in no event shall the United States
217 at any time be obligated to furnish water at the point or points of delivery at a rate in excess of
218 1,250 gallons per minute. The facilities of the Contractor shall include devices satisfactory to the
219 Contracting Officer which will limit the rate of flow to the Contractor to 1,250 gallons per
220 minute. The United States shall not be responsible for maintaining or limiting the heads or
221 pressures at which the water is delivered. Water Delivered to the Contractor in accordance with
222 this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of
223 this Contract.

224 (b) Because the capacity of the Project to deliver Project Water has been
225 constrained in recent years and may be constrained in the future due to many factors including
226 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
227 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this
228 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the
229 PEIS projected that the Contract Total set forth in this Contract will not be available to the
230 Contractor in many years. During the most recent five years, the Recent Historic Average of
231 water made available to the Contractor was 460 acre-feet. Nothing in subdivision (b) of this
232 Article shall affect the rights and obligations of the parties under any provision of this Contract.

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

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

250 concerns. The Contracting Officer will address such concerns in regulations, policies, or
251 guidelines.

252 (e) The Contractor shall comply with requirements applicable to the
253 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
254 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),
255 as amended, that are within the Contractor's legal authority to implement. The Existing
256 Contract, which evidences in excess of 38 years of diversions for M&I purposes of the quantities
257 of water provided in subdivision (a) of Article 3 of this Contract, will be considered in
258 developing an appropriate baseline for biological assessment(s) prepared pursuant to the ESA,
259 and any other needed environmental review. Nothing herein shall be construed to prevent the
260 Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with
261 respect to any biological opinion or other environmental documentation referred to in this
262 Article.

263 (f) As soon as possible following each declaration of Water Made Available
264 under Article 4 of this Contract, the Contracting Officer will make a determination whether
265 Project Water, or other water available to the Project, can be made available to the Contractor in
266 addition to the Contract Total under Article 3 of this Contract during the Year without adversely
267 impacting other Project Contractors. At the request of the Contractor, the Contracting Officer
268 will consult with the Contractor prior to making such a determination. If the Contracting Officer
269 determines that Project Water, or other water available to the Project, can be made available to
270 the Contractor, the Contracting Officer will announce the availability of such water and shall so
271 notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the
272 Contractor and other Project Contractors capable of taking such water to determine the most
273 equitable and efficient allocation of such water. If the Contractor requests the delivery of any
274 quantity of such water, the Contracting Officer shall make such water available to the Contractor
275 in accordance with applicable statutes, regulations, guidelines, and policies.

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

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

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

294 (j) The Contracting Officer shall make reasonable efforts to protect the water
295 rights necessary for the Project and to provide the water available under this Contract. The
296 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
297 extent permitted by law, in administrative proceedings related to the Project Water rights;
298 Provided, That the Contracting Officer retains the right to object to the substance of the
299 Contractor’s position in such a proceeding; Provided further, That in such proceedings the
300 Contracting Officer shall recognize the Contractor has a legal right under the terms of this
301 Contract to use Project Water.

TIME FOR DELIVERY OF WATER

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

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

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

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

327 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

328 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
329 Contract shall be delivered to the Contractor at the downstream end of the metering equipment
330 installed by the United States approximately at Station 170+62.0 of the Spring Creek Power
331 Conduit and any additional point or points of delivery either on Project facilities or another
332 location or locations mutually agreed to in writing by the Contracting Officer and the Contractor.

333 (b) Omitted.

334 (c) Omitted.

335 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
336 measured and recorded with equipment furnished, installed, operated, and maintained by the
337 United States at the point or points of delivery established pursuant to subdivision (a) of this
338 Article. Upon the request of either party to this Contract, the Contracting Officer shall
339 investigate the accuracy of such measurements and shall take any necessary steps to adjust any
340 errors appearing therein. For any period of time when accurate measurements have not been
341 made, the Contracting Officer shall consult with the Contractor prior to making a final
342 determination of the quantity delivered for that period of time.

343 (e) (1) All pumps, pipelines, storage tanks, pressure regulators and
344 controls, distribution lines, and other facilities, hereinafter referred to as the facilities, required to
345 take, convey, and distribute water to the water users served by the Contractor shall be
346 constructed or installed by the Contractor at its sole expense. Operation and maintenance of the
347 facilities and the expense thereof also shall be the sole responsibility of the Contractor. The
348 facilities may be installed, operated, and maintained on or across property of the United States in
349 the area of the turnout(s) described in subdivision (a) of this Article subject to such restrictions
350 and regulations as to location, method of installation, and operation and maintenance as may be
351 promulgated by the Contracting Officer.

352 (e) (2) The Contracting Officer shall not be responsible for the control,
353 carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to
354 this Contract beyond the delivery points specified in subdivision (a) of this Article. The
355 Contractor shall indemnify the United States, its officers, employees, agents, and assigns on
356 account of damage or claim of damage of any nature whatsoever for which there is legal
357 responsibility, including property damage, personal injury, or death arising out of or connected
358 with the control, carriage, handling, use, disposal, or distribution of such Water Delivered
359 beyond such delivery points, except for any damage or claim arising out of (i) acts or omissions
360 of the Contracting Officer or any of its officers, employees, agents, or assigns, with the intent of
361 creating the situation resulting in any damage or claim, (ii) willful misconduct of the Contracting
362 Officer or any of its officers, employees, agents, or assigns, (iii) negligence of the Contracting
363 Officer or any of its officers, employees, agents, or assigns, or (iv) damage or claims resulting
364 from a malfunction of facilities owned and/or operated by the United States.

365 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

366 6. The Contractor has established a measuring program satisfactory to the
367 Contracting Officer. The Contractor shall ensure that all surface water delivered for M&I
368 purposes is measured at each M&I service connection. The water measuring devices or water
369 measuring methods of comparable effectiveness must be acceptable to the Contracting Officer.
370 The Contractor shall be responsible for installing, operating, and maintaining and repairing all
371 such measuring devices and implementing all such water measuring methods at no cost to the
372 United States. The Contractor shall use the information obtained from such water measuring
373 devices or water measuring methods to ensure its proper management of the water, to bill water
374 users for water delivered by the Contractor; and, if applicable, to record water delivered for M&I
375 purposes by customer class as defined in the Contractor's water conservation plan provided for
376 in Article 26 of this Contract. Nothing herein contained, however, shall preclude the Contractor
377 from establishing and collecting any charges, assessments, or other revenues authorized by

378 California law. The Contractor shall include a summary of all its annual surface water deliveries
379 in the annual report described in subdivision (c) of Article 26.

380 (b) To the extent the information has not otherwise been provided, upon
381 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
382 report describing the measurement devices or water measuring methods being used or to be used
383 to implement subdivision (a) of this Article and identifying the M&I service connections or
384 alternative measurement programs approved by the Contracting Officer, at which such
385 measurement devices or water measuring methods are being used, and, if applicable, identifying
386 the locations at which such devices and/or methods are not yet being used including a time
387 schedule for implementation at such locations. The Contracting Officer shall advise the
388 Contractor in writing within 60 days as to the adequacy and necessary modifications, if any, of
389 the measuring devices or water measuring methods identified in the Contractor's report and if the
390 Contracting Officer does not respond in such time, they shall be deemed adequate. If the
391 Contracting Officer notifies the Contractor that the measuring devices or methods are
392 inadequate, the parties shall within 60 days following the Contracting Officer's response,
393 negotiate in good faith the earliest practicable date by which the Contractor shall modify said
394 measuring devices and/or measuring methods as required by the Contracting Officer to ensure
395 compliance with subdivision (a) of this Article.

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

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

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

404 RATES AND METHOD OF PAYMENT FOR WATER

405 7. (a) The Contractor shall pay the United States as provided in this Article for
406 all Delivered Water at Rates, Charges, and the Tiered Pricing Component established in
407 accordance with (i) the Secretary’s then-existing ratesetting policy for M&I Water. Such
408 ratesetting policy shall be amended, modified, or superceded only through a public notice and
409 comment procedure; (ii) applicable Federal Reclamation law and associated rules and
410 regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be
411 made by cash transaction, electronic funds transfer, or any other mechanism as may be agreed to
412 in writing by the Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing
413 Component applicable to the Contractor upon execution of this Contract are set forth in Exhibit
414 “B,” as may be revised annually.

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

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

425 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
426 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component
427 for Project Water for the following Year and the computations and cost allocations upon which
428 those Rates are based. The Contractor shall be allowed not less than two months to review and
429 comment on such computations and cost allocations. By December 31 of each Calendar Year,

430 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing
431 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B."

432 (c) At the time the Contractor submits the initial schedule for the delivery of
433 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
434 Contractor shall make an advance payment to the United States equal to the total amount payable
435 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
436 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
437 Year. Before the end of the first month and before the end of each calendar month thereafter, the
438 Contractor shall make an advance payment to the United States, at the Rate(s) set under
439 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
440 during the second month immediately following. Adjustments between advance payments for
441 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of
442 the following month; Provided, That any revised schedule submitted by the Contractor pursuant
443 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
444 Contract during any month shall be accompanied with appropriate advance payment, at the Rates
445 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
446 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
447 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
448 additional Project Water shall be delivered to the Contractor unless and until an advance
449 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
450 between the advance payments for the Water Scheduled and payments for the quantities of Water
451 Delivered during each Year pursuant to this Contract shall be made as soon as practicable, but no
452 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried
453 over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last
454 day of February.

455 (d) The Contractor shall also make a payment in addition to the Rate(s) in
456 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
457 appropriate Tiered Pricing Component then in effect, before the end of the month following the
458 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered
459 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be
460 consistent with the quantities of M&I Water Delivered as shown in the water delivery report for
461 the subject month prepared by the Contracting Officer. The water delivery report shall be
462 deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for
463 Water Delivered. Adjustment for overpayment or underpayment of Charges shall be made
464 through the adjustment of payments due to the United States for Charges for the next month.
465 Any amount to be paid for past due payment of Charges and the Tiered Pricing Component shall
466 be computed pursuant to Article 20 of this Contract.

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

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

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

479 (h) The Contracting Officer shall keep its accounts pertaining to the
480 administration of the financial terms and conditions of its long-term contracts, in accordance

481 with applicable Federal standards, so as to reflect the application of Project costs and revenues.
482 The Contracting Officer shall, each Year upon request of the Contractor, provide to the
483 Contractor a detailed accounting of all Project and Contractor expense allocations, the
484 disposition of all Project and Contractor revenues, and a summary of all water delivery
485 information. The Contracting Officer and the Contractor shall enter into good faith negotiations
486 to resolve any discrepancies or disputes relating to accountings, reports, or information.

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

494 (j) (1) Beginning at such time as deliveries of Project Water in a Year
495 exceed 80 percent of the Contract Total, then before the end of the month following the month of
496 delivery the Contractor shall make an additional payment to the United States equal to the
497 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
498 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
499 Contract Total, shall equal one-half of the difference between the Rate established under
500 subdivision (a) of this Article and the M&I Full Cost Water Rate. The Tiered Pricing
501 Component for the amount of Water Delivered which exceeds 90 percent of the Contract Total
502 shall equal the difference between (i) the Rate established under subdivision (a) of this Article
503 and (ii) the M&I Full Cost Water Rate.

504 (2) Omitted.

505 (3) For purposes of determining the applicability of the Tiered Pricing
506 Component pursuant to this Article, Water Delivered shall include Project Water that the

507 Contractor transfers to others but shall not include Project Water transferred to the Contractor,
508 nor shall it include the additional water provided to the Contractor under the provisions of
509 subdivision (f) of Article 3 of this Contract.

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

518 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
519 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
520 adjusted upward or downward to reflect the changed costs, if any, incurred by the Contracting
521 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in
522 accordance with the then applicable Project ratesetting policy. If the Contractor is receiving
523 lower Rates and Charges because of inability to pay and is transferring Project Water to another
524 entity whose Rates and Charges are not adjusted due to inability to pay, the Rates and Charges
525 for transferred Project Water shall be the Contractor's Rates and Charges and will not be
526 adjusted to reflect the Contractor's inability to pay.

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

529 (n) With respect to the Rates for M&I Water, the Contractor asserts that it is
530 not legally obligated to pay any Project deficits claimed by the United States to have accrued as
531 of the date of this Contract or deficit-related interest charges thereon. By entering into this
532 Contract, the Contractor does not waive any legal rights or remedies that it may have with

533 respect to such disputed issues. Notwithstanding the execution of this Contract, and payments
534 made hereunder, the Contractor may challenge in the appropriate administrative or judicial
535 forums: (1) the existence, computation, or imposition of any deficit charges accruing during the
536 term of the Existing Contract and any preceding interim renewal contracts, if applicable; (2)
537 interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in
538 the Rates; (4) the application by the United States of payments made by the Contractor under its
539 Existing Contract; and any preceding interim renewal contracts, if applicable; and (5) the
540 application of such payments in the Rates. The Contracting Officer agrees that the Contractor
541 shall be entitled to the benefit of any administrative or judicial ruling in favor of any Project
542 M&I contractor on any of these issues, and credits for payments heretofore made, Provided, That
543 the basis for such ruling is applicable to the Contractor.

544 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

548 SALES, TRANSFERS, OR EXCHANGES OF WATER

549 9. (a) The right to receive Project Water provided for in this Contract may be
550 sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of
551 California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,
552 and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project
553 Water under this Contract may take place without the prior written approval of the Contracting
554 Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or
555 exchanges shall be approved absent all appropriate environmental documentation, including but
556 not limited to documents prepared pursuant to NEPA and ESA. Such environmental
557 documentation should include, as appropriate, an analysis of ground-water impacts and

558 economic and social effects, including environmental justice, of the proposed water transfers on
559 both the transferor and transferee.

560 (b) In order to facilitate efficient water management by means of water
561 transfers of the type historically carried out among Project Contractors located within the same
562 geographical area and to allow the Contractor to participate in an accelerated water transfer
563 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,
564 all necessary environmental documentation including, but not limited to, documents prepared
565 pursuant to NEPA and ESA, analyzing annual transfers within such geographical areas, and the
566 Contracting Officer shall determine whether such transfers comply with applicable law.
567 Following the completion of the environmental documentation, such transfers addressed in such
568 documentation shall be conducted with advance notice to the Contracting Officer, but shall not
569 require prior written approval by the Contracting Officer. Such environmental documentation
570 and the Contracting Officer's compliance determination shall be reviewed every five years and
571 updated, as necessary, prior to the expiration of the then-existing five-year period. All
572 subsequent environmental documentation shall include an alternative to evaluate not less than the
573 quantity of Project Water historically transferred within the same geographical area.

574 (c) For a water transfer to qualify under subdivision (b) of this Article, such
575 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three
576 years, for M&I use, ground-water recharge, water banking, similar ground-water activities,
577 surface water storage, or fish and wildlife resources; not lead to land conversion; and be
578 delivered to established cropland, wildlife refuges, ground-water basins or M&I use; (ii) occur
579 within a single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water
580 through existing facilities with no new construction or modifications to facilities and be between
581 existing Project Contractors and/or the Contractor and the United States, Department of the
582 Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and

583 requirements imposed for protection of the environment and Indian Trust Assets, as defined
584 under Federal law.

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

591 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

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TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

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

CONSTRAINTS ON THE AVAILABILITY OF WATER

12. (a) In its operation of the Project, the Contracting Officer will use all reasonable means to guard against a Condition of Shortage in the quantity of water to be made

634 available to the Contractor pursuant to this Contract. In the event the Contracting Officer
635 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
636 Contractor of said determination as soon as practicable.

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

642 (c) Omitted.

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

646 (e) By entering into this Contract, the Contractor does not waive any legal
647 rights or remedies it may have to file or participate in any administrative or judicial proceeding
648 contesting (i) the sufficiency of the manner in which any Project M&I Water Shortage Policy
649 adopted after the effective date of this Contract was promulgated; (ii) the substance of such a
650 policy; or (iii) the applicability of such a policy. By agreeing to the foregoing, the Contracting
651 Officer does not waive any legal defenses or remedies that it may then have to assert in such a
652 proceeding.

653 UNAVOIDABLE GROUNDWATER PERCOLATION

654 13. Omitted.

655 RULES AND REGULATIONS

656 14. The parties agree that the delivery of Project Water or use of Federal facilities
657 pursuant to this Contract is subject to Federal Reclamation law, as amended and supplemented,
658 and the rules and regulations promulgated by the Secretary of the Interior under Federal
659 Reclamation law.

660

WATER AND AIR POLLUTION CONTROL

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

665

QUALITY OF WATER

666 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant
667 to this Contract shall be operated and maintained to enable the United States to deliver Project
668 Water to the Contractor in accordance with the water quality standards specified in subsection
669 2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of
670 October 27, 1986 (100 Stat. 3050) or other existing Federal laws. The United States is under no
671 obligation to construct or furnish water treatment facilities to maintain or to improve the quality
672 of Water Delivered to the Contractor pursuant to this Contract. The United States does not
673 warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

674 (b) The O&M of Project facilities shall be performed in such manner as is
675 practicable to maintain the quality of raw water made available through such facilities at the
676 highest level reasonably attainable as determined by the Contracting Officer. The Contractor
677 shall be responsible for compliance with all State and Federal water quality standards applicable
678 to surface and subsurface agricultural drainage discharges generated through the use of Federal
679 or Contractor facilities or Project Water provided by the Contractor within the Contractor's
680 Service Area.

681

WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

682

683 17. (a) Omitted.
684 (b) Water or water rights now owned or hereafter acquired by the Contractor,
685 other than from the United States, may be stored, conveyed, and/or diverted through Project

686 facilities, subject to the completion of appropriate environmental documentation, with the
687 approval of the Contracting Officer and the execution of any contract determined by the
688 Contracting Officer to be necessary, consistent with the following provisions:

689 (1) The Contractor may introduce non-Project water into Project
690 facilities and deliver said water to lands within the Contractor's Service Area subject to payment
691 to the United States of an appropriate rate as determined by the applicable Project ratesetting
692 policy, the RRA, and the Project use power policy, if such Project use power policy is applicable,
693 each as amended, modified, or superceded from time to time.

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

700 (3) The United States shall not be responsible for control, care, or
701 distribution of the non-Project water before it is introduced into or after it is delivered from the
702 Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United
703 States, and their respective officers, agents, and employees, from any claim for damage to
704 persons or property, direct or indirect, resulting from the acts of the Contractor, its officers',
705 employees', agents' or assigns' act(s) in (i) extracting or diverting non-Project water from any
706 source, or (ii) diverting such non-Project water into Project facilities.

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

710 (5) After Project purposes are met, as determined by the Contracting
711 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity

712 of the facilities declared to be available by the Contracting Officer for conveyance and
713 transportation of non-Project water prior to any such remaining capacity being made available to
714 non-Project contractors.

715 OPINIONS AND DETERMINATIONS

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

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

731 COORDINATION AND COOPERATION

732 19. (a) In order to further their mutual goals and objectives, the Contracting
733 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
734 with other affected Project Contractors, in order to improve the operation and management of the
735 Project. The communication, coordination, and cooperation regarding operations and
736 management shall include, but not be limited to, any action which will or may materially affect
737 the quantity or quality of Project Water supply, the allocation of Project Water supply, and

738 Project financial matters including, but not limited to, budget issues. The communication,
739 coordination, and cooperation provided for hereunder shall extend to all provisions of this
740 Contract. Each party shall retain exclusive decision making authority for all actions, opinions,
741 and determinations to be made by the respective party.

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

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

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

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

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

761 (3.1) The Secretary and the Contractor desire to work together to
762 maximize the reasonable beneficial use of water for their mutual benefit. As a consequence, the
763 Secretary and the Contractor will work in partnership and with others in the region of the

764 Redding Groundwater Basin, including other Contractors in the Shasta and Trinity Divisions of
765 the Project, to facilitate the better integration with the region of the Redding Groundwater Basin
766 of all water supplies including, but not limited to, the better management and integration of
767 surface water and groundwater, transfers and exchanges of water, the development and better
768 utilization of surface water storage, the effective utilization of waste, seepage and return flow
769 water, and other operational and management options that may be identified in the future.

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

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

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

780 CHARGES FOR DELINQUENT PAYMENTS

781 20. (a) The Contractor shall be subject to interest, administrative and penalty
782 charges on delinquent installments or payments. When a payment is not received by the due
783 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
784 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an
785 administrative charge to cover additional costs of billing and processing the delinquent payment.
786 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional
787 penalty charge of six (6%) percent per year for each day the payment is delinquent beyond the
788 due date. Further, the Contractor shall pay any fees incurred for debt collection services
789 associated with a delinquent payment.

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

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

798 EQUAL OPPORTUNITY

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

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

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

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

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

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

828 (f) In the event of the Contractor's noncompliance with the nondiscrimination
829 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
830 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared
831 ineligible for further Government contracts in accordance with procedures authorized in said
832 amended Executive Order, and such other sanctions may be imposed and remedies invoked as

833 provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as
834 otherwise provided by law.

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

844 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

857 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

858 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
859 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
860 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
861 laws, as well as with their respective implementing regulations and guidelines imposed by the
862 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

877 PRIVACY ACT COMPLIANCE

878 24. Omitted.

879 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

888 WATER CONSERVATION

889 26. (a) Prior to the delivery of water provided from or conveyed through
890 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
891 shall be implementing an effective water conservation and efficiency program based on the
892 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
893 the conservation and efficiency criteria for evaluating water conservation plans established under
894 Federal law. The water conservation and efficiency program shall contain definite water
895 conservation objectives, appropriate economically feasible water conservation measures, and
896 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
897 Contract shall be contingent upon the Contractor's continued implementation of such water

898 conservation program. In the event the Contractor's water conservation plan or any revised water
899 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not
900 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
901 the Contracting Officer determines are beyond the control of the Contractor, water deliveries
902 shall be made under this Contract so long as the Contractor diligently works with the Contracting
903 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
904 immediately begins implementing its water conservation and efficiency program in accordance
905 with the time schedules therein.

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

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

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

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

922 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

930 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

931 28. Omitted.

932 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

933 29. The expenditure or advance of any money or the performance of any obligation of
934 the United States under this Contract shall be contingent upon appropriation or allotment of
935 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
936 obligations under this Contract. No liability shall accrue to the United States in case funds are
937 not appropriated or allotted.

938 BOOKS, RECORDS, AND REPORTS

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

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

953 (c) Omitted.

954 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

963 SEVERABILITY

964 32. In the event that a person or entity who is neither (i) a party to a Project contract,
965 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
966 an association or other form of organization whose primary function is to represent parties to
967 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
968 enforceability of a provision included in this Contract and said person, entity, association, or
969 organization obtains a final court decision holding that such provision is legally invalid or
970 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
971 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
972 final court decision identify by mutual agreement the provisions in this Contract which must be
973 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).
974 The time periods specified above may be extended by mutual agreement of the parties. Pending
975 the completion of the actions designated above, to the extent it can do so without violating any
976 applicable provisions of law, the United States shall continue to make the quantities of Project
977 Water specified in this Contract available to the Contractor pursuant to the provisions of this
978 Contract which were not found to be legally invalid or unenforceable in the final court decision.

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RESOLUTION OF DISPUTES

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

OFFICIALS NOT TO BENEFIT

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

CHANGES IN CONTRACTOR'S SERVICE AREA

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

(b) Within 30 days of receipt of a request for such a change, the Contracting Officer will notify the Contractor of any additional information required by the Contracting Officer for processing said request, and both parties will meet to establish a mutually agreeable schedule for timely completion of the process. Such process will analyze whether the proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be

1007 responsible for all costs incurred by the Contracting Officer in this process, and such costs will
1008 be paid in accordance with Article 25 of this Contract.

1009 FEDERAL LAWS

1010 36. By entering into this Contract, the Contractor does not waive its rights to contest
1011 the validity or application in connection with the performance of the terms and conditions of this
1012 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1013 the terms and conditions of this Contract unless and until relief from application of such Federal
1014 law or regulation to the implementing provision of the Contract is granted by a court of
1015 competent jurisdiction.

1016 NOTICES

1017 37. Any notice, demand, or request authorized or required by this Contract shall be
1018 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1019 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349
1020 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when
1021 mailed, postage prepaid, or delivered to the Shasta County Board of Supervisors, c/o Keswick
1022 County Service Area No. 25, 1855 Placer Street, Redding, California 96001. The designation of
1023 the addressee or the address may be changed by notice given in the same manner as provided in
1024 this Article for other notices.

1025 CONFIRMATION OF CONTRACT

1026 38. The Contractor, after the execution of this Contract, shall furnish to the
1027 Contracting Officer evidence that pursuant to the laws of the State of California, the Contractor
1028 is a legally constituted entity and the Contract is lawful, valid, and binding on the Contractor.
1029 This Contract shall not be binding on the United States until such evidence has been provided to
1030 the Contracting Officer's satisfaction.

1031 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of
1032 the day and year first above written.

1033 THE UNITED STATES OF AMERICA

1034 By: _____
1035 Regional Director, Mid-Pacific Region
1036 Bureau of Reclamation

1037 SHASTA COUNTY WATER AGENCY

1038 By: _____
1039 Chairman, Board of Directors

1040 Attest:

1041 By: _____
1042 County Clerk and Ex-Officio Clerk
1043 of the Board of Directors

1044 (I:\LTRC\Draft LTRC\04-19-2004 Keswick Final LTRC Draft Contract.doc)

EXHIBIT A

[Map or Description of Contractor's Service Area]

EXHIBIT B

2004 Water Rates and Charges
Shasta County for the Benefit of
County Service Area No. 25 – Keswick – Trinity River Division

M&I COST OF SERVICE RATES:

Capital Rate:	\$ 9.27
O&M Rates:	
Water Marketing	5.01
Storage	6.38
Deficit Rate:	5.51
CFO/PRF Adjustment Rate 1/	<u>1.83</u>
TOTAL	<u>\$28.01</u>

M&I FULL COST RATE: \$34.77

CHARGES UNDER P.L. 102-575 TO THE
RESTORATION FUND 2/

Restoration Payments (3407(d)(2)(A)) \$15.64

1/ Chief Financial Officer (CFO) adjustment and Provision for Replacement (PFR) expense is being distributed over a 5-year period beginning in FY 2003 for those contractors that requested those costs be deferred.

2/ 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).