

M&I Only
 Stonyford (County of Colusa) 4/28-2004
 R. O. CVP-Wide Draft 3/18-2004
 Stonyford (County of Colusa) 3/01-2004
 Stonyford (County of Colusa) 7/22-2003
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 Sac.Valley Division Draft 5/28-2003
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 Contract No.
 4-07-20-W0348 -LTR1

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
COUNTY OF COLUSA
PROVIDING FOR PROJECT WATER SERVICE TO THE TOWN OF STONYFORD
FROM THE BLACK BUTTE PROJECT

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Exhibit A - Map of Contractor's Service Area

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7 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
8 AND
9 COUNTY OF COLUSA
10 PROVIDING FOR PROJECT WATER SERVICE TO THE TOWN OF STONYFORD
11 FROM THE BLACK BUTTE PROJECT

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

22 WITNESSETH, That:

23 EXPLANATORY RECITALS

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

30 [1.1] WHEREAS, the United States constructed the Orland Project which is being
31 operated by the Orland Unit Water Users' Association pursuant to Contract No. 14-06-200-3502
32 dated August 26, 1954, as amended by the contract dated August 24, 1960; and

33 [2nd] WHEREAS, the United States constructed the Black Butte Dam and Reservoir
34 which were integrated into the Project and which will be used in part for the furnishing of water
35 to the Contractor pursuant to the terms of this Contract; and

36 [2.1] WHEREAS, the water rights of all lands and the use thereof within the watershed
37 of Stony Creek and its tributaries were adjudicated by the U.S. District Court for the Northern
38 District of California, Second Division in the United States of America, v. H.C. Angle, et al.,
39 Equity No. 30, hereinafter referred to as the Angle Decree and said rights are administered by
40 said courts; and

41 [2.2] WHEREAS, the Contractor has obtained from the State of California Water
42 Resources Control Board (SWRCB) a Permit 20308 pursuant to "Application No. 27382 to
43 Appropriate Unappropriated Water", hereinafter referred to as Permit 20308, to appropriate
44 water by pumping water from the underflow of Stony Creek on the condition, among others, that
45 such diversion of water is allowed only so long as a water exchange contract between the
46 Contractor and the United States is in effect; and

47 [2.3] WHEREAS, the United States is willing to make water stored in Black Butte
48 Reservoir available to the Contractor below the confluence of Little Stony Creek and Stony
49 Creek from the East Park Reservoir of the Orland Project pursuant to the exchange Contract
50 No. 14-06-200-1020A, dated June 26, 1964, between the United States and the Orland Unit
51 Water Users' Association; and

52 [2.4] WHEREAS, the United States and the County of Colusa recognize that no water
53 is physically made available under this Contract in the reach of Stony Creek between the
54 confluence of Little Stony Creek and Stony Creek and the point of diversion under Permit
55 20308; and

56 [3rd] WHEREAS, the rights to Project Water were acquired by the United States
57 pursuant to California law for operation of the Project; and

58 [4th] WHEREAS, the Contractor and the United States entered into Contract
59 No. 4-07-20-W0348, which established terms for the delivery to the Contractor of Project Water
60 from the Black Butte Project from February 14, 1984, through February 13, 2024, hereinafter
61 referred to as the "Existing Contract"; and

62 [5th] WHEREAS, the United States and the Contractor have, pursuant to subsection
63 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into a
64 binding agreement identified as Binding Agreement No. 4-07-20-W0348-BA, which sets out the
65 terms pursuant to which the Contractor agreed to renew the Existing Contract before its
66 expiration date after completion of a programmatic environmental impact statement and other
67 appropriate environmental documentation and negotiation of a renewal contract, and which also
68 sets out the consequences of a subsequent decision not to renew; and

69 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
70 Existing Contract following completion of appropriate environmental documentation, including a
71 programmatic environmental impact statement (PEIS) pursuant to the National Environmental

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

74 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
75 environmental review necessary to provide for long-term renewal of the Existing Contract; and

76 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
77 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws
78 of the State of California, for water service from the Project; and

79 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all
80 of its obligations under the Existing Contract; and

81 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
82 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
83 reasonable and beneficial use and, based upon a needs analysis cooperatively prepared by the
84 Contracting Officer and the Contractor, has demonstrated projected future demand for water use
85 that exceeds the Contract Total to be made available to it pursuant to this Contract; and

86 [11th] WHEREAS, water obtained from the Project has been relied upon by urban and
87 agricultural areas within California for more than 50 years, and is considered by the Contractor
88 as an essential portion of its water supply; and

89 [12th] WHEREAS, the economies of regions within the Project, including the
90 Contractor's, depend upon the continued availability of water, including water service from the
91 Project; and

92 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and
93 partnerships to pursue measures to improve water supply, water quality, and reliability of the
94 Project for all Project purposes; and

95 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
96 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
97 repayment of the Project as required by law; to guard reasonably against Project Water

98 shortages; to achieve a reasonable balance among competing demands for use of Project Water;
99 and to comply with all applicable environmental statutes, all consistent with the legal obligations
100 of the United States relative to the Project; and

101 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
102 relationship in order to achieve their mutual goals; and

103 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
104 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

107 DEFINITIONS

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

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

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

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

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

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

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

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

129 (h) Omitted;

130 (i) Omitted;

131 (j) "Full Cost Rate" shall mean an annual rate as determined by the
132 Contracting Officer that shall amortize the expenditures for construction properly allocable to the
133 Project irrigation or M&I functions, as appropriate, of facilities in service including all O&M
134 deficits funded, less payments, over such periods as may be required under Federal Reclamation
135 law, or applicable contract provisions. Interest will accrue on both the construction expenditures
136 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the
137 date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated
138 in accordance with subsections 202(3)(B) and (3)(C) of the Reclamation Reform Act of
139 October 12, 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA. The Full Cost
140 Rate includes actual operation, maintenance, and replacement costs consistent with Section 426.2
141 of the Rules and Regulations for the RRA;

142 (k) Omitted;

143 (l) Omitted;

144 (m) Omitted;

145 (n) Omitted;

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

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

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

154 (r) Omitted;

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

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

160 (u) "Project Water" shall mean all water, including water stored in Black
161 Butte Reservoir and made available from East Park Reservoir of the Orland Project to be
162 furnished below the confluence of Little Stony Creek and Stony Creek to downstream water
163 users to replace their water right entitlement water diverted upstream by the Contractor, that is
164 developed, diverted, stored, or delivered by the Secretary in accordance with the statutes
165 authorizing the Project and in accordance with the terms and conditions of water rights acquired
166 pursuant to California law;

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

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

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

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

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

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

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

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

189 TERM OF CONTRACT

190 2. (a) This Contract shall be effective March 1, 20___, through February 28,
191 20___, and supercedes the Existing Contract. In the event the Contractor wishes to renew this
192 Contract beyond February 28, 20___, the Contractor shall submit a request for renewal in writing
193 to the Contracting Officer no later than two years prior to the date this Contract expires.

194 (b) Omitted.

195 (c) This Contract shall be renewed for successive periods of up to 40 years
196 each, which periods shall be consistent with then-existing Reclamation-wide policy, under terms
197 and conditions mutually agreeable to the parties and consistent with Federal and State law. The
198 Contractor shall be afforded the opportunity to comment to the Contracting Officer on the

199 proposed adoption and application of any revised policy applicable to the delivery of M&I Water
200 that would limit the term of any subsequent renewal contract with the Contractor for the
201 furnishing of M&I Water to less than 40 years.

202 (d) The Contracting Officer shall make a determination ten years after the
203 date of execution of this Contract, and every five years thereafter during the term of this
204 Contract, of whether a conversion to a contract under said subsection (c)(1) of Section 9 of the
205 Reclamation Project Act of 1939 can be accomplished. The Contracting Officer anticipates that
206 during the term of this Contract, all authorized Project construction expected to occur will have
207 occurred, and on that basis the Contracting Officer agrees upon such completion to allocate all
208 costs that are properly assignable to the Contractor, and agrees further that, at any time after such
209 allocation is made, and subject to satisfaction of the condition set out in this subdivision, this
210 Contract shall, at the request of the Contractor, be converted to a contract under said subsection
211 9(c)(1), subject to applicable Federal law and under stated terms and conditions mutually
212 agreeable to the Contractor and the Contracting Officer. A condition for such conversion to
213 occur shall be a determination by the Contracting Officer that, account being taken of the amount
214 credited to return by the Contractor as provided for under Federal Reclamation law, the
215 remaining amount of construction costs assignable for ultimate return by the Contractor can
216 probably be repaid to the United States within the term of a contract under said subsection
217 9(c)(1). If the remaining amount of costs that are properly assignable to the Contractor cannot be
218 determined during the term of this Contract, the Contracting Officer shall notify the Contractor,
219 and provide the reason(s) why such a determination could not be made. Further, the Contracting
220 Officer shall make such a determination as soon thereafter as possible so as to permit, upon
221 request of the Contractor and satisfaction of the condition set out above, conversion to a contract

222 under said subsection 9(c)(1). In the event such determination of costs has not been made at a
223 time which allows conversion of this Contract during the term of this Contract or the Contractor
224 has not requested conversion of this Contract within such term, the parties shall incorporate in
225 any subsequent renewal contract as described in subdivision (b) of this Article a provision that
226 carries forth in substantially identical terms the provisions of this subdivision.

227 (e) The Contractor recognizes that this Contract is subject to the terms and
228 conditions of Contract No. 14-06-200-1020A, between the United States and the Orland Unit
229 Water Users' Association. In the event that Contract No. 14-06-200-1020A is terminated, this
230 Contract shall also be considered terminated.

231 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

232 3. (a) During the term of this Contract, consistent with all applicable State water
233 rights, permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11
234 and 12 of this Contract, the Contracting Officer shall make available for delivery to the
235 Contractor a maximum of 40 acre-feet of Project Water annually for M&I purposes. Provided,
236 That the Contracting Officer shall not be obligated to deliver more than 10 acre-feet of Project
237 Water annually until Permit 20308 is amended or modified by the SWRCB to allow delivery of
238 more than 10 acre-feet of Project Water. Upon such amendment or modification, the Contractor
239 may request, and the Contracting Officer shall be obligated to deliver to the Contractor such
240 additional amounts of Project Water, up to the above-stated Contractor's maximum entitlement
241 as authorized by the SWRCB; Provided, further, That the requirements of Federal law, if any,
242 which apply to the delivery and use of such additional quantities of Project Water have been met.
243 Water Delivered to the Contractor in accordance with this subdivision shall be scheduled and
244 paid for pursuant to the provisions of Articles 4 and 7 of this Contract. Water Made Available
245 pursuant to this Contract shall be released by the United States from East Park Reservoir in Little
246 Stony Creek, when necessary to replace the water under the prior rights of downstream users
247 below the confluence of Little Stony Creek and Stony Creek when the Contractor is diverting

248 water pursuant to Permit 20308. Water Made Available under this Contract is not available for
249 sale or other method of disposal by the Contractor.

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

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

261 (d) The Contractor shall make reasonable and beneficial use of all water
262 furnished pursuant to this Contract. Ground-water recharge programs (direct, indirect, or in
263 lieu), ground-water banking programs, surface water storage programs, and other similar
264 programs utilizing Project Water or other water furnished pursuant to this Contract conducted
265 within the Contractor's Service Area which are consistent with applicable State law and result in
266 use consistent with Federal Reclamation law will be allowed; Provided, That any direct recharge
267 program(s) is (are) described in the Contractor's water conservation plan submitted pursuant to
268 Article 26 of this Contract; Provided, further, That such water conservation plan demonstrates
269 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average,
270 the quantity of Delivered Water is demonstrated to be reasonable for such uses and in
271 compliance with Federal Reclamation law. Ground-water recharge programs, ground-water
272 banking programs, surface water storage programs, and other similar programs utilizing Project
273 Water or other water furnished pursuant to this Contract conducted outside the Contractor's

274 Service Area may be permitted upon written approval of the Contracting Officer, which approval
275 will be based upon environmental documentation, Project Water rights, and Project operational
276 concerns. The Contracting Officer will address such concerns in regulations, policies, or
277 guidelines.

278 (e) The Contractor shall comply with requirements applicable to the
279 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
280 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),
281 as amended, that are within the Contractor's legal authority to implement. The Existing
282 Contract, which evidences in excess of 19 years of diversions for M&I purposes of the quantities
283 of water provided in subdivision (a) of Article 3 of this Contract, will be considered in
284 developing an appropriate baseline for biological assessment(s) prepared pursuant to the ESA,
285 and any other needed environmental review. Nothing herein shall be construed to prevent the
286 Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with
287 respect to any biological opinion or other environmental documentation referred to in this
288 Article.

289 (f) Omitted.

290 (g) Omitted.

291 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
292 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract
293 during the term thereof and any subsequent renewal contracts, as described in Article 2 of this
294 Contract, during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all
295 of its obligations under this Contract and any renewals thereof. Nothing in the preceding
296 sentence shall affect the Contracting Officer's ability to impose shortages under Article 11 or
297 subdivision (b) of Article 12 of this Contract or applicable provisions of any subsequent renewal
298 contracts.

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

302 (j) The Contracting Officer shall make reasonable efforts to protect the water
303 rights necessary for the Project and to provide the water available under this Contract. The
304 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
305 extent permitted by law, in administrative proceedings related to the Project Water rights;
306 Provided, That the Contracting Officer retains the right to object to the substance of the
307 Contractor's position in such a proceeding; Provided further, That in such proceedings the
308 Contracting Officer shall recognize the Contractor has a legal right under the terms of this
309 Contract to use Project Water.

310 TIME FOR DELIVERY OF WATER

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

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

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

326 (c) The Contractor shall not schedule Project Water in excess of the quantity
327 of Project Water the Contractor intends to put to reasonable and beneficial use within the
328 Contractor's Service Area.

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

334 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

335 5. (a) The Contractor intends to divert 10 acre-feet of Project Water during the
336 period September 15 of each Year to April 15 of the succeeding Year from wells near the
337 community of Stonyford pursuant to Permit 20308.

338 (b) The Contracting Officer or other appropriate entity as designated by the
339 Contracting Officer (hereinafter referred to as the "Other Appropriate Entity") shall make all
340 reasonable efforts to maintain sufficient levels of water in Black Butte Reservoir and East Park
341 Reservoir to deliver Project Water to the Contractor.

342 (c) Omitted.

343 (d) Water diverted by the Contractor from its wells near the community of
344 Stonyford pursuant to Permit 20308 shall be measured and recorded with equipment furnished,
345 installed, operated, and maintained by the Contractor at or near the wells. Upon the request of
346 either party to this Contract, the Contracting Officer shall investigate the accuracy of such
347 measurements and shall take any necessary steps to adjust any errors appearing therein. For any
348 period of time when accurate measurements have not been made, the Contracting Officer shall

349 consult with the Contractor prior to making a final determination of the quantity delivered for
350 that period of time.

351 (e) (1) The construction, operation, and maintenance of all tunnels,
352 pipelines, pumps, canals, storage tanks, distribution lines, and other facilities required to divert,
353 measure, convey, and distribute water and the expense thereof shall be the responsibility of the
354 Contractor.

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

368 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

369 6. (a) The Contractor has established a measuring program satisfactory to the
370 Contracting Officer. The Contractor shall ensure that water delivered for M&I purposes is
371 measured at each M&I service connection. The water measuring devices or water measuring
372 methods of comparable effectiveness must be acceptable to the Contracting Officer. The
373 Contractor shall be responsible for installing, operating, and maintaining and repairing all such
374 measuring devices and implementing all such water measuring methods at no cost to the United

375 States. The Contractor shall use the information obtained from such water measuring devices or
376 water measuring methods to ensure its proper management of the water, to bill water users for
377 water delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes
378 by customer class as defined in the Contractor's water conservation plan provided for in
379 Article 26 of this Contract. Nothing herein contained, however, shall preclude the Contractor
380 from establishing and collecting any charges, assessments, or other revenues authorized by
381 California law. The Contractor shall include a summary of all its annual water deliveries in the
382 annual report described in subdivision (c) of Article 26.

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

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

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

405 (e) The Contractor shall inform the Contracting Officer on or before the 10th
406 calendar day of each month of the quantity of M&I Water taken during the preceding month.

407 RATES AND METHOD OF PAYMENT FOR WATER

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

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

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

425 the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during
426 the period October 1 of the current Calendar Year, through September 30, of the following
427 Calendar Year, and such notification shall revise Exhibit "B."

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

435 (c) At the time the Contractor submits the initial schedule for the delivery of
436 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
437 Contractor shall make an advance payment to the United States equal to the total amount payable
438 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
439 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
440 Year. Before the end of the first month and before the end of each calendar month thereafter, the
441 Contractor shall make an advance payment to the United States, at the Rate(s) set under
442 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
443 during the second month immediately following. Adjustments between advance payments for
444 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of
445 the following month; Provided, That any revised schedule submitted by the Contractor pursuant
446 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
447 Contract during any month shall be accompanied with appropriate advance payment, at the Rates
448 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
449 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
450 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no

451 additional Project Water shall be delivered to the Contractor unless and until an advance
452 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
453 between the advance payments for the Water Scheduled and payments for the quantities of Water
454 Delivered during each Year pursuant to this Contract shall be made as soon as practicable, but no
455 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried
456 over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last
457 day of February.

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

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

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

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

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

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

497 (j) (1) Beginning at such time as deliveries of Project Water in a Year
498 exceed 80 percent of the Contract Total, then before the end of the month following the month of
499 delivery the Contractor shall make an additional payment to the United States equal to the
500 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
501 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the

502 Contract Total, shall equal one-half of the difference between the Rate established under
503 subdivision (a) of this Article and the M&I Full Cost Water Rate. The Tiered Pricing
504 Component for the amount of Water Delivered which exceeds 90 percent of the Contract Total
505 shall equal the difference between (i) the Rate established under subdivision (a) of this Article
506 and (ii) the M&I Full Cost Water Rate.

507 (2) Omitted.

508 (3) Omitted.

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

517 (l) Omitted.

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

520 (n) With respect to the Rates for M&I Water, the Contractor asserts that it is
521 not legally obligated to pay any Project deficits claimed by the United States to have accrued as
522 of the date of this Contract or deficit-related interest charges thereon. By entering into this
523 Contract, the Contractor does not waive any legal rights or remedies that it may have with
524 respect to such disputed issues. Notwithstanding the execution of this Contract, and payments
525 made hereunder, the Contractor may challenge in the appropriate administrative or judicial
526 forums: (1) the existence, computation, or imposition of any deficit charges accruing during the
527 term of the Existing Contract and any preceding interim renewal contracts, if applicable;

528 (2) interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest
529 in the Rates; (4) the application by the United States of payments made by the Contractor under
530 its Existing Contract and any preceding interim renewal contracts, if applicable; and (5) the
531 application of such payments in the Rates. The Contracting Officer agrees that the Contractor
532 shall be entitled to the benefit of any administrative or judicial ruling in favor of any Project
533 M&I contractor on any of these issues, and credits for payments heretofore made, Provided, That
534 the basis for such ruling is applicable to the Contractor.

535 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

539 SALES, TRANSFERS, OR EXCHANGES OF WATER

540 9. Omitted.

541 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

558 TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

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

579 pursuant to this Contract within the Contractor's Service Area by the Contractor or those
580 claiming by, through, or under the Contractor.

581 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

592 (c) Omitted.

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

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

603 UNAVOIDABLE GROUNDWATER PERCOLATION

604 13. Omitted.

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RULES AND REGULATIONS

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

WATER AND AIR POLLUTION CONTROL

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

QUALITY OF WATER

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

(b) The O&M of Project facilities shall be performed in such manner as is practicable to maintain the quality of raw water made available through such facilities at the highest level reasonably attainable as determined by the Contracting Officer. The Contractor shall be responsible for compliance with all State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated through the use of Federal

629 or Contractor facilities or Project Water provided by the Contractor within the Contractor's
630 Service Area.

631 WATER ACQUIRED BY THE CONTRACTOR
632 OTHER THAN FROM THE UNITED STATES

633 17. (a) Omitted.

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

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

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

650 (3) The United States shall not be responsible for control, care, or
651 distribution of the non-Project water before it is introduced into or after it is delivered from the
652 Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United
653 States and its respective officers, agents, and employees, from any claim for damage to persons
654 or property, direct or indirect, resulting from the acts of the Contractor, its officers', employees',

655 agents' or assigns', act(s) in (i) extracting or diverting non-Project water from any source, or (ii)
656 diverting such non-Project water into Project facilities.

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

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

665 OPINIONS AND DETERMINATIONS

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

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

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COORDINATION AND COOPERATION

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19. (a) In order to further their mutual goals and objectives, the Contracting

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Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and

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with other affected Project Contractors, in order to improve the operation and management of the

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Project. The communication, coordination, and cooperation regarding operations and

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management shall include, but not be limited to, any action which will or may materially affect

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the quantity or quality of Project Water supply, the allocation of Project Water supply, and

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Project financial matters including, but not limited to, budget issues. The communication,

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coordination, and cooperation provided for hereunder shall extend to all provisions of this

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Contract. Each party shall retain exclusive decision making authority for all actions, opinions,

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and determinations to be made by the respective party.

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

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Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet

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with interested Project Contractors to develop a mutually agreeable, written Project-wide

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process, which may be amended as necessary separate and apart from this Contract. The goal of

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this process shall be to provide, to the extent practicable, the means of mutual communication

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and interaction regarding significant decisions concerning Project operation and management on

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a real-time basis.

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

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

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intent:

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(1) The Contracting Officer will, at the request of the Contractor,

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assist in the development of integrated resource management plans for the Contractor. Further,

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the Contracting Officer will, as appropriate, seek authorizations for implementation of

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partnerships to improve water supply, water quality, and reliability.

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

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

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

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

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

721 CHARGES FOR DELINQUENT PAYMENTS

722 20. (a) The Contractor shall be subject to interest, administrative and penalty
723 charges on delinquent installments or payments. When a payment is not received by the due
724 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
725 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an
726 administrative charge to cover additional costs of billing and processing the delinquent payment.
727 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional
728 penalty charge of six (6%) percent per year for each day the payment is delinquent beyond the
729 due date. Further, the Contractor shall pay any fees incurred for debt collection services
730 associated with a delinquent payment.

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

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

739 EQUAL OPPORTUNITY

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

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

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

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

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

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

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

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

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

785 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

798 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

799 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
800 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
801 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
802 laws, as well as with their respective implementing regulations and guidelines imposed by the
803 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

818 PRIVACY ACT COMPLIANCE

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

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

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

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

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

844 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

845 25. In addition to all other payments to be made by the Contractor pursuant to this
846 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and

847 detailed statement submitted by the Contracting Officer to the Contractor for such specific items
848 of direct cost incurred by the United States for work requested by the Contractor associated with
849 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies
850 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed
851 to in writing in advance by the Contractor. This Article shall not apply to costs for routine
852 contract administration.

853 WATER CONSERVATION

854 26. (a) Prior to the delivery of water provided from or conveyed through
855 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
856 shall be implementing an effective water conservation and efficiency program based on the
857 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
858 the conservation and efficiency criteria for evaluating water conservation plans established under
859 Federal law. The water conservation and efficiency program shall contain definite water
860 conservation objectives, appropriate economically feasible water conservation measures, and
861 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
862 Contract shall be contingent upon the Contractor's continued implementation of such water
863 conservation program. In the event the Contractor's water conservation plan or any revised water
864 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not
865 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
866 the Contracting Officer determines are beyond the control of the Contractor, water deliveries
867 shall be made under this Contract so long as the Contractor diligently works with the Contracting
868 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor

869 immediately begins implementing its water conservation and efficiency program in accordance
870 with the time schedules therein.

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

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

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

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

887 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

895 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

896 28. Omitted.

897 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

898 29. The expenditure or advance of any money or the performance of any obligation of
899 the United States under this Contract shall be contingent upon appropriation or allotment of
900 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
901 obligations under this Contract. No liability shall accrue to the United States in case funds are
902 not appropriated or allotted.

903 BOOKS, RECORDS, AND REPORTS

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

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

918 (c) Omitted.

919 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

928 SEVERABILITY

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

944 RESOLUTION OF DISPUTES

945 33. Should any dispute arise concerning any provisions of this Contract, or the
946 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
947 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
948 Officer referring any matter to Department of Justice, the party shall provide to the other party
949 30 days' written notice of the intent to take such action; Provided, That such notice shall not be
950 required where a delay in commencing an action would prejudice the interests of the party that
951 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer

952 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,
953 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
954 United States may have.

955 OFFICIALS NOT TO BENEFIT

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

959 CHANGES IN CONTRACTOR'S SERVICE AREA

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

963 (b) Within 30 days of receipt of a request for such a change, the Contracting
964 Officer will notify the Contractor of any additional information required by the Contracting
965 Officer for processing said request, and both parties will meet to establish a mutually agreeable
966 schedule for timely completion of the process. Such process will analyze whether the proposed
967 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
968 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
969 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
970 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
971 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be
972 responsible for all costs incurred by the Contracting Officer in this process, and such costs will
973 be paid in accordance with Article 25 of this Contract.

974 FEDERAL LAWS

975 36. By entering into this Contract, the Contractor does not waive its rights to contest
976 the validity or application in connection with the performance of the terms and conditions of this
977 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
978 the terms and conditions of this Contract unless and until relief from application of such Federal

979 law or regulation to the implementing provision of the Contract is granted by a court of
980 competent jurisdiction.

981 NOTICES

982 37. Any notice, demand, or request authorized or required by this Contract shall be
983 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
984 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349
985 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when
986 mailed, postage prepaid, or delivered to the Board of Supervisors of the County of Colusa, 546
987 Jay Street, Colusa, California 95932. The designation of the addressee or the address may be
988 changed by notice given in the same manner as provided in this Article for other notices.

989 CONFIRMATION OF CONTRACT

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

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

997 THE UNITED STATES OF AMERICA

998 By: _____
999 Regional Director, Mid-Pacific Region
1000 Bureau of Reclamation

1001 COUNTY OF COLUSA

1002 By: _____
1003 Chairperson of the Board of Supervisors

1004 Attest:

1005 By: _____
1006 Secretary of the Board of Supervisors

EXHIBIT A

[Map or Description of Contractor's Service Area]

EXHIBIT B

2004 Water Rates and Charges
County of Colusa (Town of Stonyford) – Black Butte Project

| <u>M&I COST OF SERVICE RATES:</u> | <u>Per Acre Foot</u> |
|--|----------------------|
| Capital Rate: | \$ 7.27 |
| O&M Rates: | |
| Water Marketing | 5.01 |
| Storage | 6.38 |
| Deficit Rate: | 1.65 |
| CFO/PRF Adjustment Rate 1/ | <u>2.57</u> |
| TOTAL | <u>\$22.88</u> |
| <u>M&I FULL COST RATE:</u> | <u>\$27.20</u> |
| <u>CHARGES UNDER P.L. 102-575 TO THE</u> <u>RESTORATION FUND 2/</u> | |
| Restoration Payments (3407(d)(2)(A)) | <u>\$15.64</u> |

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).