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Contract No.  
14-06-200-3537A-LTR1

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES  
AND  
TRANQUILLITY PUBLIC UTILITY DISTRICT  
PROVIDING FOR PROJECT WATER SERVICE  
FROM DELTA DIVISION

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Exhibit A - Map of Contractor's Service Area

Exhibit B - Rates and Charges



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EXPLANATORY RECITALS

[1<sup>st</sup>] 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

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

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

[4<sup>th</sup>] Melvin D. Hughes and Mardella Hughes and the United States entered into Contract No.14-06-200-3537A, which established terms for the delivery of 70 acre-feet of supplemental water from October 11, 1967, through December 23, 2003, and 93 acre-feet of Schedule 2 water as a permanent adjustment and settlement of the Melvin and Mardella Hughes asserted claims of rights to water in Fresno Slough tributary to the San Joaquin River in fulfillment of such rights; and

[5<sup>th</sup>] WHEREAS, Melvin D. Hughes and Mardella Hughes are now deceased and the property under Contract No. 14-06-200-3537A now belongs to Tranquillity Public Utility District as described in recorded deeds dated August 6, 1980, and November 12, 1987; and

[5.1] WHEREAS, the contract, herein referred to as the “Assumption Thereof” dated

41 October 10, 2003, assumed 93 acre-feet of Schedule 2 water and 70 acre-feet of Project Water  
42 available under Contract No. 14-06-200-3537A to the Contractor; and

43 [5.2] WHEREAS, Schedule 2 water is not the subject of this Contract and will continue to  
44 be delivered and administered under the terms and conditions of Contract No. 14-06-200-3537A; and

45 [5.3] WHEREAS, Contract No. 14-06-200-3537A also established the terms for the  
46 delivery of 70 acre-feet of supplemental water, hereinafter referred to as Project Water, to the  
47 Contractor from Delta Division facilities from October 11, 1967, through December 23, 2003; and

48 [5.4] WHEREAS, the Contractor and the United States have pursuant to subsection  
49 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into interim  
50 renewal contract(s) identified as Contract No(s) 14-06-200-3537A-IR1 and 14-06-200-3537A-IR2, the  
51 current of which is hereinafter referred to as the Existing Contract, which provided for the delivery of  
52 Project Water to the Contractor from December 24, 2003, through February 28, 2005; and

53 [6<sup>th</sup>] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the  
54 Existing Contract following completion of appropriate environmental documentation, including a  
55 programmatic environmental impact statement (PEIS) pursuant to the National Environmental Policy  
56 Act (NEPA) analyzing the direct and indirect impacts and benefits of implementing the CVPIA and  
57 the potential renewal of all existing contracts for Project Water; and

58 [7<sup>th</sup>] WHEREAS, the United States has completed the PEIS and all other appropriate  
59 environmental review necessary to provide for long-term renewal of the terms and conditions for

60 Project Water service under the Existing Contract; and

61 [8<sup>th</sup>] WHEREAS, the Contractor has requested the long-term renewal for Project Water  
62 service pursuant to the terms under the Existing Contract, Federal Reclamation law, and the laws of  
63 the State of California, for water service from the Project; and

64 [9<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all of  
65 its obligations under the Existing Contract; and

66 [10<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting  
67 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and  
68 beneficial use and/or has demonstrated projected future demand for water use such that the  
69 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the  
70 quantity of Project Water to be made available to it pursuant to this Contract; and

71 [11<sup>th</sup>] WHEREAS, water obtained from the Project has been relied upon by urban and  
72 agricultural areas within California for more than 50 years, and is considered by the Contractor as an  
73 essential portion of its water supply; and

74 [12<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the Contractor's,  
75 depend upon the continued availability of water, including water service from the Project; and

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

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

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

87 [15.1] WHEREAS, the Contractor has utilized or may utilize transfers, contract assignments,  
88 rescheduling and conveyance of Project Water and non-Project water under this Contract as tools to  
89 minimize the impacts of Conditions of Shortage and to maximize the beneficial use of water; and

90 [15.2] WHEREAS, the parties desire and intend that this Contract not provide a disincentive  
91 to the Contractor in continuing to carry out the beneficial activities set out in the Explanatory Recital  
92 immediately above; and

93 [16<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into this  
94 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

97 DEFINITIONS

98 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible

99 with the intent of the parties as expressed in this Contract, the term:

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

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

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

108 (d) AContracting Officer@ shall mean the Secretary of the Interior-s duly authorized  
109 representative acting pursuant to this Contract or applicable Federal Reclamation law or regulation;

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

112 (f) AContractor's Service Area" shall mean the area to which the Contractor is  
113 permitted to provide Project Water under this Contract as described in Exhibit AA@ attached hereto,

114 which may be modified from time to time in accordance with Article 35 of this Contract without  
115 amendment of this Contract;

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

118 (g.1) "Delta Division Facilities" shall mean those existing and future Project

119 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to, the  
120 Tracy Pumping Plant, the O’Neill Forebay, the O’Neill Pumping/Generating Plant, and the San Luis  
121 Reservoir, used to divert, store and convey water to those Project Contractors entitled to receive  
122 water conveyed through the Delta-Mendota Canal.

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

126 (i) AExcess Lands® shall mean all lands in excess of the limitations contained in  
127 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal  
128 Reclamation law;

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

139 (k) AIneligible Lands® shall mean all lands to which Irrigation Water may not be

140 delivered in accordance with Section 204 of the RRA;

Deleted:

141 (l) Irrigation Full Cost Water Rate<sup>®</sup> shall mean the Full Cost Rate applicable to  
142 the delivery of Irrigation Water;

143 (m) Irrigation Water<sup>®</sup> shall mean Project Water that is used primarily in the  
144 production of agricultural crops or livestock, including domestic use incidental thereto, and watering  
145 of livestock;

146 (n) Landholder<sup>®</sup> shall mean a party that directly or indirectly owns or leases  
147 nonexempt land, as provided in 43 CFR 426.2;

148 (o) Municipal and Industrial (M&I) Water<sup>®</sup> shall mean Project Water, other than  
149 Irrigation Water, made available to the Contractor. M&I Water shall include water used for human  
150 use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are  
151 kept for personal enjoyment or water delivered to landholdings operated in units of less than five  
152 acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of  
153 water delivered to any such landholding is a use described in subdivision (m) of this Article;

154 (p) M&I Full Cost Water Rate<sup>®</sup> shall mean the Full Cost Rate applicable  
155 to the delivery of M&I Water;

Deleted:

156 (q) Operation and Maintenance<sup>®</sup> or O&M" shall mean normal and reasonable  
157 care, control, operation, repair, replacement (other than capital replacement), and maintenance of  
158 Project facilities;

Deleted:

159 (r) Operating Non-Federal Entity" shall mean the entity(ies), its (their)  
160 successors or assigns, which has (have) the obligation to operate and maintain all or a portion of the

161 Delta Division Facilities pursuant to a written agreement(s) with the United States. When this  
162 Contract was entered into, the Operating Non-Federal Entity(ies) was (were) the San Luis & Delta-  
163 Mendota Water Authority;

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

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

168 (u) AProject Water® shall mean all water that is developed, diverted, stored, or  
169 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance  
170 with the terms and conditions of water rights acquired pursuant to California law; however, Schedule  
171 2 Water shall not be considered Project Water for purposes of this Contract;

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

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

178 (w.1) "Schedule 2 Water" shall mean that water as so defined under Contract  
179 No. 14-06-200-3537A with the United States, which will continue to be delivered and administered

180 under said contract;

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

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

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

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

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

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

196 TERM OF CONTRACT

197 2. (a) This Contract shall be effective March 1, 2005, through February 28, 2030.  
198 This Contract when effective supersedes that portion of Contract No. 14-06-200-3537A-IR2, dated  
199 from March 1, 2004, through February 28, 2005, pertaining to the furnishing of Project Water. In the

200 event the Contractor wishes to renew this Contract beyond February 28, 2030, the Contractor shall  
201 submit a request for renewal in writing to the Contracting Officer no later than two years prior to the  
202 date this Contract expires. The renewal of this Contract insofar as it pertains to the furnishing of  
203 Irrigation Water to the Contractor shall be governed by subdivision (b) of this Article, and the  
204 renewal of this Contract insofar as it pertains to the furnishing of M&I Water to the Contractor shall  
205 be governed by subdivision (c) of this Article.

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

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

221 Project Water to be made available to it pursuant to such renewal; (v) the Contractor is complying  
222 with all terms and conditions of this Contract; and (vi) the Contractor has the physical and legal  
223 ability to deliver Project Water.

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

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

241 | \_\_\_\_\_(d) The Contracting Officer shall make a determination ten years after the date of

242 execution of this Contract, and every five years thereafter during the term of this Contract, of whether  
243 a conversion of the relevant portion of this Contract to a contract under subsection 9(d) of the  
244 Reclamation Project Act of 1939 can be accomplished pursuant to the Act of July 2, 1956 (70 Stat  
245 483). The Contracting Officer shall also make a determination ten years after the date of execution  
246 of this Contract and every five years thereafter during the term of this Contract of whether a  
247 conversion of the relevant portion of this Contract to a contract under subsection 9(c)(1) of the  
248 Reclamation Project Act of 1939 can be accomplished. Notwithstanding any provision of this  
249 Contract, the Contractor reserves and shall have all rights and benefits under the Act of July 2, 1956  
250 (70 Stat. 483).

251 The Contracting Officer anticipates that during the term of this Contract, all authorized Project  
252 construction expected to occur will have occurred, and on that basis the Contracting Officer agrees  
253 upon such completion to allocate all costs that are properly assignable to the Contractor, and agrees  
254 further that, at any time after such allocation is made, and subject to satisfaction of the condition set  
255 out in this subdivision, this Contract shall, at the request of the Contractor, be converted to a contract  
256 under subsection 9(d) or 9(c)(1), whichever is applicable of the Reclamation Project Act of 1939,  
257 subject to applicable Federal law and under stated terms and conditions mutually agreeable to the  
258 Contractor and the Contracting Officer. A condition for such conversion to occur shall be a  
259 determination by the Contracting Officer that, account being taken of the amount credited to return  
260 by the Contractor as provided for under Federal Reclamation law, the remaining amount of  
261 construction costs assignable for ultimate return by the Contractor can probably be repaid to the  
262 United States within the term of a contract under subsection 9(d) or 9(c)(1), whichever is applicable.

263 | If the remaining amount of costs that are properly assignable to the Contractor cannot be determined  
264 | during the term of this Contract, the Contracting Officer shall notify the Contractor, and provide the  
265 | reason(s) why such a determination could not be made. Further, the Contracting Officer shall make  
266 | such a determination as soon thereafter as possible so as to permit, upon request of the Contractor  
267 | and satisfaction of the conditions set out above, conversion to a contract under subsection 9(d) or  
268 | 9(c)(1), whichever is applicable. In the event such determination of costs has not been made at a  
269 | time which allows conversion of this Contract during the term of this Contract or the Contractor has  
270 | not requested conversion of this Contract within such term, the parties shall incorporate in any  
  
271 | subsequent renewal contract as described in subdivision (b) of this Article a provision that carries  
272 | forth in substantially identical terms the provisions of this subdivision.

273 | WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

274 | 3. (a) During each Year, consistent with all applicable State water rights, permits,  
275 | and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this  
276 | Contract, the Contracting Officer shall make available for delivery to the Contractor 70 acre-feet of  
277 | Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in accordance  
278 | with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of  
279 | this Contract. Schedule 2 water shall continue to be delivered to the Contractor at no cost pursuant to  
280 | Contract No. 14-06-200-3537A, dated October 11, 1967, and shall not be subject to the provisions of  
281 | this Contract, and said Contract No. 14-06-200-3537A shall be in full force and effect insofar as it  
282 | pertains to the furnishing of Schedule 2 water.

283 (b) Because the capacity of the Project to deliver Project Water has been  
284 constrained in recent years and may be constrained in the future due to many factors including  
285 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor  
286 actually receiving the amount of Project Water set out in subdivision (a) of this Article in any given  
287 Year is uncertain. The Contracting Officer's modeling referenced in the PEIS projected that the  
288 Contract Total set forth in this Contract will not be available to the Contractor in many years. During  
289 the most recent five years, the Recent Historic Average of Water Made Available to the Contractor

290 was 47 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights and obligations of  
291 the parties under any provision of this Contract.

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

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

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

319 (e) The Contractor shall comply with requirements applicable to the Contractor in  
320 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract  
321 undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended, that are  
322 within the Contractor's legal authority to implement. The Contract No(s) 14-06-200-3537A, 14-06-  
323 200-3537A-IR1 and 14-06-200-3537A-IR2, which evidence in excess of 38 years of diversions for

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

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

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

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

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

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

369 TIME FOR DELIVERY OF WATER

370 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall  
371 announce the Contracting Officer's expected declaration of the Water Made Available. Such

372 declaration will be expressed in terms of both Water Made Available and the Recent Historic  
373 Average and will be updated monthly, and more frequently if necessary, based on then-current  
374 operational and hydrologic conditions and a new declaration with changes, if any, to the Water Made  
375 Available will be made. The Contracting Officer shall provide forecasts of Project operations and the  
376 basis of the estimate, with relevant supporting information, upon the written request of the  
377 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting Officer  
378 shall provide the Contractor with the updated Recent Historic Average.

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

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

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

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

393 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

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

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

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

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

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

433 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

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

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

450           (b)     To the extent the information has not otherwise been provided, upon execution  
451 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing  
452 the measurement devices or water measuring methods being used or to be used to implement  
453 subdivision (a) of this Article and identifying the agricultural turnouts and the M&I service

454 connections or alternative measurement programs approved by the Contracting Officer, at which such  
455 measurement devices or water measuring methods are being used, and, if applicable, identifying the  
456 locations at which such devices and/or methods are not yet being used including a time schedule for  
457 implementation at such locations. The Contracting Officer shall advise the Contractor in writing  
458 within 60 days as to the adequacy, and necessary modifications, if any, of the measuring devices or  
459 water measuring methods identified in the Contractor's report and if the Contracting Officer does not  
460 respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the  
461 Contractor that the measuring devices or methods are inadequate, the parties shall within 60 days  
462 following the Contracting Officer's response, negotiate in good faith the earliest practicable date by  
463 which the Contractor shall modify said measuring devices and/or measuring methods as required by  
464 the Contracting Officer to ensure compliance with subdivision (a) of this Article.

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

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

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

474 RATES AND METHOD OF PAYMENT FOR WATER

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

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

487                             (1)     Prior to July 1 of each Calendar Year, the Contracting Officer shall  
488     provide the Contractor an estimate of the Charges for Project Water that will be applied to the period  
489     October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and  
490     the basis for such estimate. The Contractor shall be allowed not less than two months to review and  
491     comment on such estimates. On or before September 15 of each Calendar Year, the Contracting  
492     Officer shall notify the Contractor in writing of the Charges to be in effect during the period  
493     October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and  
494     such notification shall revise Exhibit "B."

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

502                   (c)     At the time the Contractor submits the initial schedule for the delivery of  
503     Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor  
504     shall make an advance payment to the United States equal to the total amount payable pursuant to the  
505     applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be  
506     delivered pursuant to this Contract during the first two calendar months of the Year. Before the end  
507     of the first month and before the end of each calendar month thereafter, the Contractor shall make an  
508     advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the  
509     Water Scheduled to be delivered pursuant to this Contract during the second month immediately  
510     following. Adjustments between advance payments for Water Scheduled and payments at Rates due  
511     for Water Delivered shall be made before the end of the following month; Provided, That any revised  
512     schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the  
513     amount of Water Delivered pursuant to this Contract during any month shall be accompanied with  
514     appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered  
515     to the Contractor in advance of such payment. In any month in which the quantity of Water

516 Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid  
517 for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and  
518 until an advance payment at the Rates then in effect for such additional Project Water is made. Final  
519 adjustment between the advance payments for the Water Scheduled and payments for the quantities  
520 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable  
521 but no later than April 30th of the following Year, or 60 days after the delivery of Project Water  
522 rescheduled under subdivision (g) of Article 3 of this Contract if such water is not delivered by the  
523 last day of February.

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

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

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

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

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

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

558 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,  
559 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component, and/or  
560 for making and allocating payments, other than those set forth in this Article may be in the mutual  
561 best interest of the parties, it is expressly agreed that the parties may enter into agreements to modify  
562 the mechanisms, policies, and procedures for any of those purposes while this Contract is in effect  
563 without amending this Contract.

564 (j) (1) Beginning at such time as deliveries of Project Water in a Year exceed  
565 80 percent of the Contract Total, then before the end of the month following the month of delivery  
566 the Contractor shall make an additional payment to the United States equal to the applicable Tiered  
567 Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in excess of  
568 80 percent of the Contract Total, but less than or equal to 90 percent of the Contract Total, shall equal  
569 one-half of the difference between the Rate established under subdivision (a) of this Article and the  
570 Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable. The Tiered  
571 Pricing Component for the amount of Water Delivered which exceeds 90 percent of the Contract  
572 Total shall equal the difference between (i) the Rate established under subdivision (a) of this Article  
573 and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable.  
574 For all Water Delivered pursuant to subdivision (a) of Article 3 of this Contract which is in excess of  
575 80 percent of the Contract Total, this increment shall be deemed to be divided between Irrigation  
576 Water and M&I Water in the same proportion as actual deliveries of each bear to the cumulative total  
577 Water Delivered.

578 (2) Subject to the Contracting Officer's written approval, the Contractor

579 may request and receive an exemption from such Tiered Pricing Component for Project Water  
580 delivered to produce a crop which the Contracting Officer determines will provide significant and  
581 quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced;  
582 Provided, That the exemption from the Tiered Pricing Component for Irrigation Water shall apply  
583 only if such habitat values can be assured consistent with the purposes of the CVPIA through binding  
584 agreements executed with or approved by the Contracting Officer prior to use of such water.

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

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

598                   (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,  
599 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates, in

600 accordance with the applicable Project ratesetting policy, adjusted upward or downward to reflect the  
601 changed costs, if any, incurred by the Contracting Officer in the delivery of the transferred Project  
602 Water to the transferee's point of delivery in accordance with the then applicable Project ratesetting  
603 policy. If the Contractor is receiving lower Rates and Charges because of inability to pay and is  
604 transferring Project Water to another entity whose Rates and Charges are not adjusted due to inability  
605 to pay, the Rates and Charges for transferred Project Water shall not be adjusted to reflect the  
606 Contractor's inability to pay.

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

609 (n) Omitted

610 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

614 SALES, TRANSFERS, OR EXCHANGES OF WATER

615 9. (a) The right to receive Project Water provided for in this Contract may be sold,  
616 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if  
617 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable  
618 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this  
619 Contract may take place without the prior written approval of the Contracting Officer, except as  
620 provided for in subdivision (b) of this Article, and no such sales, transfers, or exchanges shall be

621 approved absent all appropriate environmental documentation, including but not limited to,  
622 documents prepared pursuant to the NEPA and ESA. Such environmental documentation should  
623 include, as appropriate, an analysis of groundwater impacts and economic and social effects,  
624 including environmental justice, of the proposed water transfers on both the transferor and transferee.

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

639 (c) For a water transfer to qualify under subdivision (b) of this Article, such water  
640 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three years, for  
641 M&I use, groundwater recharge, groundwater banking, or similar groundwater activities, surface

642 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to  
643 established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur within a single  
644 Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through existing  
645 facilities with no new construction or modifications to facilities and be between existing Project  
646 Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply  
647 with all applicable Federal, State, and local or tribal laws and requirements imposed for protection of  
648 the environment and Indian Trust Assets, as defined under Federal law.

649 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

661 (b) All advances for miscellaneous costs incurred for work requested by the  
662 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when

663 the work has been completed. If the advances exceed the actual costs incurred, the difference will be  
664 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will  
665 be billed for the additional costs pursuant to Article 25.

666 TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

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

689 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

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

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

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

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

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

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

725 Contracting Officer under subdivision (c)(1) of this Article, but in no event shall such amount exceed  
726 the Contract Total. In the event the Contracting Officer subsequently determines that the Contracting  
727 Officer can increase or needs to decrease the available supply for delivery from Delta Division  
728 Facilities to long-term water service and repayment Contractors during the relevant Year, such  
729 additions or reductions to the available supply shall be apportioned consistent with subparagraphs (1)  
730 through (4), inclusive.

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

741 UNAVOIDABLE GROUNDWATER PERCOLATION

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

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RULES AND REGULATIONS

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

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WATER AND AIR POLLUTION CONTROL

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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.

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QUALITY OF WATER

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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. None of the foregoing affects or modifies the obligations of the United States under Contract No. 14-06-200-3537A dated October 11, 1967, with respect to Schedule 2 water, including but not limited to, Article 10 of said contract.

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(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

769 responsible for compliance with all State and Federal water quality standards applicable to surface  
770 and subsurface agricultural drainage discharges generated through the use of Federal or Contractor  
771 facilities or Project Water provided by the Contractor within the Contractor's Service Area.

772 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN  
773 FROM THE UNITED STATES

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

787 (b) Water or water rights now owned or hereafter acquired by the Contractor,  
788 other than from the United States may be stored, conveyed and/or diverted through Project facilities,  
789 subject to the completion of appropriate environmental documentation, with the approval of the

790 Contracting Officer and the execution of any contract determined by the Contracting Officer to be  
791 necessary, consistent with the following provisions:

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

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

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

809 (i) extracting or diverting non-Project water from any source, or (ii) diverting such non-Project water

810 into Project facilities.

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

814 (5) After Project purposes are met, as determined by the Contracting  
815 Officer, the United States and Project Contractors entitled to Project Water from Delta Division  
816 Facilities shall share priority to utilize the remaining capacity of the facilities declared to be available  
817 by the Contracting Officer for conveyance and transportation of non-Project water prior to any such  
818 remaining capacity being made available to non-Project contractors. Other Project Contractors shall  
819 have a second priority to any remaining capacity of facilities declared to be available by the  
820 Contracting Officer for conveyance and transportation of non-Project water prior to any such  
821 remaining capacity being made available to non-Project contractors.

822 OPINIONS AND DETERMINATIONS

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

831 determination implementing a specific provision of Federal law embodied in statute or regulation.

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

837 COORDINATION AND COOPERATION

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

847 (b) Within 120 days following the effective date of this Contract, the Contractor,  
848 other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested  
849 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be  
850 amended as necessary separate and apart from this Contract. The goal of this process shall be to  
851 provide, to the extent practicable, the means of mutual communication and interaction regarding

852 significant decisions concerning Project operation and management on a real-time basis.

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

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

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

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

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

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

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

873 the physical integrity of structures or facilities.

874 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

892 EQUAL OPPORTUNITY

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

894 (a) The Contractor will not discriminate against any employee or applicant for  
895 employment because of race, color, religion, sex, or national origin. The Contractor will take  
896 affirmative action to ensure that applicants are employed, and that employees are treated during  
897 employment, without regard to their race, color, religion, sex, or national origin. Such action shall

898 include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;  
899 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of  
900 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in  
901 conspicuous places, available to employees and applicants for employment, notices to be provided by  
902 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

903 (b) The Contractor will, in all solicitations or advertisements for employees placed

904 by or on behalf of the Contractor, state that all qualified applicants will receive consideration for  
905 employment without discrimination because of race, color, religion, sex, or national origin.

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

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

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

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

927 (g) The Contractor will include the provisions of paragraphs (a) through (g) in  
928 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
929 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such  
930 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action

931 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a  
932 means of enforcing such provisions, including sanctions for noncompliance: Provided, however,  
933 That in the event the Contractor becomes involved in, or is threatened with, litigation with a  
934 subcontractor or vendor as a result of such direction, the Contractor may request the United States to  
935 enter into such litigation to protect the interests of the United States.

936 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

949                           COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

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

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

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

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PRIVACY ACT COMPLIANCE

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

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

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

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

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

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CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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25. In addition to all other payments to be made by the Contractor pursuant to this Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and detailed statement submitted by the Contracting Officer to the Contractor for such specific items of

998 direct cost incurred by the United States for work requested by the Contractor associated with this  
999 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and  
1000 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in  
1001 writing in advance by the Contractor. This Article shall not apply to costs for routine contract  
1002 administration.

1003 WATER CONSERVATION

1004 26. (a) Prior to the delivery of water provided from or conveyed through Federally  
1005 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be  
1006 implementing an effective water conservation and efficiency program based on the Contractor's water  
1007 conservation plan that has been determined by the Contracting Officer to meet the conservation and  
1008 efficiency criteria for evaluating water conservation plans established under Federal law. The water  
1009 conservation and efficiency program shall contain definite water conservation objectives, appropriate  
1010 economically feasible water conservation measures, and time schedules for meeting those objectives.  
1011 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's  
1012 continued implementation of such water conservation program. In the event the Contractor's water  
1013 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of  
1014 Article 26 of this Contract have not yet been determined by the Contracting Officer to meet such  
1015 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the  
1016 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently  
1017 works with the Contracting Officer to obtain such determination at the earliest practicable date, and  
1018 thereafter the Contractor immediately begins implementing its water conservation and efficiency

1019 program in accordance with the time schedules therein.

1020 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of  
1021 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement  
1022 the Best Management Practices identified by the time frames issued by the California Urban Water  
1023 Conservation Council for such M&I Water unless any such practice is determined by the Contracting  
1024 Officer to be inappropriate for the Contractor.

1025 (c) The Contractor shall submit to the Contracting Officer a report on the status of  
1026 its implementation of the water conservation plan on the reporting dates specified in the then existing  
1027 conservation and efficiency criteria established under Federal law.

1028 (d) At five-year intervals, the Contractor shall revise its water conservation plan to  
1029 reflect the then current conservation and efficiency criteria for evaluating water conservation plans  
1030 established under Federal law and submit such revised water management plan to the Contracting  
1031 Officer for review and evaluation. The Contracting Officer will then determine if the water  
1032 conservation plan meets Reclamation's then current conservation and efficiency criteria for  
1033 evaluating water conservation plans established under Federal law.

1034 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall  
1035 be described in the Contractor's water conservation plan.

1036 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1037 27. Except as specifically provided in Article 17 of this Contract, the provisions of this  
1038 Contract shall not be applicable to or affect non-Project water or water rights now owned or hereafter  
1039 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such

1040 water shall not be considered Project Water under this Contract. In addition, this Contract shall not  
1041 be construed as limiting or curtailing any rights which the Contractor or any water user within the  
1042 Contractor's Service Area acquires or has available under any other contract pursuant to Federal  
1043 Reclamation law.

1044 OPERATION AND MAINTENANCE BY  
1045 SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

1046 28. (a) The O&M of a portion of the Project facilities which serve the Contractor, and  
1047 responsibility for funding a portion of the costs of such O&M, have been transferred to the San Luis  
1048 & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement (8-07-  
1049 20-X0354) between the United States and the Operating Non-Federal Entity San Luis & Delta-  
1050 Mendota Water Authority. That separate agreement shall not interfere with or affect the rights or  
1051 obligations of the Contractor or the United States hereunder.

1052 (b) The Contracting Officer has previously notified the Contractor in writing that  
1053 the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has  
1054 been transferred to the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority,  
1055 and therefore, the Contractor shall pay directly to the Operating Non-Federal Entity San Luis &  
1056 Delta-Mendota Water Authority, or to any successor approved by the Contracting Officer under the  
1057 terms and conditions of the separate agreement between the United States and the Operating Non-  
1058 Federal Entity San Luis & Delta-Mendota Water Authority described in subdivision (a) of this  
1059 Article, all rates, charges, or assessments of any kind, including any assessment for reserve funds,  
1060 which the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or such

1061 successor determines, sets, or establishes for the O&M of the portion of the Project facilities operated  
1062 and maintained by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or  
1063 such successor. Such direct payments to the Operating Non-Federal Entity San Luis & Delta-  
1064 Mendota Water Authority or such successor shall not relieve the Contractor of its obligation to pay  
1065 directly to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing  
1066 Component except to the extent the Operating Non-Federal Entity San Luis & Delta-Mendota Water  
1067 Authority collects payments on behalf of the United States in accordance with the separate agreement  
1068 identified in subdivision (a) of this Article.

1069 (c) For so long as the O&M of any portion of the Project facilities serving the  
1070 Contractor is performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water  
1071 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the  
1072 Rates for Water Delivered under this Contract representing the cost associated with the activity being  
1073 performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or its  
1074 successor.

1075 (d) In the event the O&M of the Project facilities operated and maintained by the  
1076 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by the  
1077 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,  
1078 in writing, and present to the Contractor a revised Exhibit AB<sup>®</sup> which shall include the portion of the  
1079 Rates to be paid by the Contractor for Project Water under this Contract representing the O&M costs  
1080 of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter,  
1081 in the absence of written notification from the Contracting Officer to the contrary, pay the Rates,

1082 Charges, and Tiered Pricing Component specified in the revised Exhibit “B” directly to the United  
1083 States in compliance with Article 7 of this Contract.

1084 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1085 29. The expenditure or advance of any money or the performance of any obligation of the  
1086 United States under this Contract shall be contingent upon appropriation or allotment of funds.  
1087 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations  
1088 under this Contract. No liability shall accrue to the United States in case funds are not appropriated  
1089 or allotted.

1090 BOOKS, RECORDS, AND REPORTS

1091 30. (a) The Contractor shall establish and maintain accounts and other books and  
1092 records pertaining to administration of the terms and conditions of this Contract, including: the  
1093 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;  
1094 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other  
1095 matters that the Contracting Officer may require. Reports thereon shall be furnished to the  
1096 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.  
1097 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right  
1098 during office hours to examine and make copies of the other party's books and records relating to  
1099 matters covered by this Contract.

1100 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,  
1101 records, or other information shall be requested from the Contractor by the Contracting Officer unless  
1102 such books, records, or information are reasonably related to the administration or performance of  
1103 this Contract. Any such request shall allow the Contractor a reasonable period of time within which  
1104 to provide the requested books, records, or information.

1105 (c) At such time as the Contractor provides information to the Contracting Officer  
1106 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the  
1107 Operating Non-Federal Entity.

1108 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1109 31. (a) The provisions of this Contract shall apply to and bind the successors and  
1110 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1111 therein shall be valid until approved in writing by the Contracting Officer.

1112 (b) The assignment of any right or interest in this Contract by either party shall not  
1113 interfere with the rights or obligations of the other party to this Contract absent the written  
1114 concurrence of said other party.

1115 (c) The Contracting Officer shall not unreasonably condition or withhold approval  
1116 of any proposed assignment.

1117 SEVERABILITY

1118 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor  
1119 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an  
1120 association or other form of organization whose primary function is to represent parties to Project  
1121 contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1122 enforceability of a provision included in this Contract and said person, entity, association, or  
1123 organization obtains a final court decision holding that such provision is legally invalid or  
1124 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the  
1125 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court  
1126 decision identify by mutual agreement the provisions in this Contract which must be revised and (ii)  
1127 within three months thereafter promptly agree on the appropriate revision(s). The time periods  
1128 specified above may be extended by mutual agreement of the parties. Pending the completion of the  
1129 actions designated above, to the extent it can do so without violating any applicable provisions of

1130 law, the United States shall continue to make the quantities of Project Water specified in this  
1131 Contract available to the Contractor pursuant to the provisions of this Contract which were not found  
1132 to be legally invalid or unenforceable in the final court decision.

1133 RESOLUTION OF DISPUTES

1134 33. Should any dispute arise concerning any provisions of this Contract, or the parties=  
1135 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the  
1136 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring  
1137 any matter to the Department of Justice, the party shall provide to the other party 30 days' written  
1138 notice of the intent to take such action; Provided, That such notice shall not be required where a  
1139 delay in commencing an action would prejudice the interests of the party that intends to file suit.  
1140 During the 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in  
1141 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to  
1142 | waive or abridge any right or remedy that the Contractor or the United States may have.

1143 OFFICIALS NOT TO BENEFIT

1144 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1145 Contractor shall benefit from this Contract other than as a water user or landowner in the same  
1146 manner as other water users or landowners.

1147 CHANGES IN CONTRACTOR'S SERVICE AREA

1148 35. (a) While this Contract is in effect, no change may be made in the Contractor's  
1149 Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,  
1150 except upon the Contracting Officer's written consent.

1151 | \_\_\_\_\_(b) Within 30 days of receipt of a request for such a change, the Contracting  
1152 Officer will notify the Contractor of any additional information required by the Contracting Officer

1153 for processing said request, and both parties will meet to establish a mutually agreeable schedule for  
1154 timely completion of the process. Such process will analyze whether the proposed change is likely  
1155 to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of  
1156 the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-  
1157 constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project  
1158 Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with  
1159 the NEPA and the ESA. The Contractor will be responsible for all costs incurred by the Contracting  
1160 Officer in this process, and such costs will be paid in accordance with Article 25 of this Contract.

1161 FEDERAL LAWS

1162 36. By entering into this Contract, the Contractor does not waive its rights to contest the  
1163 validity or application in connection with the performance of the terms and conditions of this  
1164 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the  
1165 terms and conditions of this Contract unless and until relief from application of such Federal law or  
1166 regulation to the implementing provision of the Contract is granted by a court of competent  
1167 jurisdiction.

1168 NOTICES

1169 37. Any notice, demand, or request authorized or required by this Contract shall be  
1170 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered  
1171 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721,  
1172 and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of  
1173 Directors of the Tranquillity Public Utility District, P. O. Box 689, Tranquillity, California 93668.

1174 The designation of the addressee or the address may be changed by notice given in the same manner  
1175 as provided in this Article for other notices.

1176 CONFIRMATION OF CONTRACT

1177 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a  
1178 decree of a court of competent jurisdiction of the State of California, confirming the execution of this  
1179 Contract. The Contractor shall furnish the United States a certified copy of the final decree, the  
1180 validation proceedings, and all pertinent supporting records of the court approving and confirming  
1181 this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

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

1184 THE UNITED STATES OF AMERICA

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

1188 (SEAL)

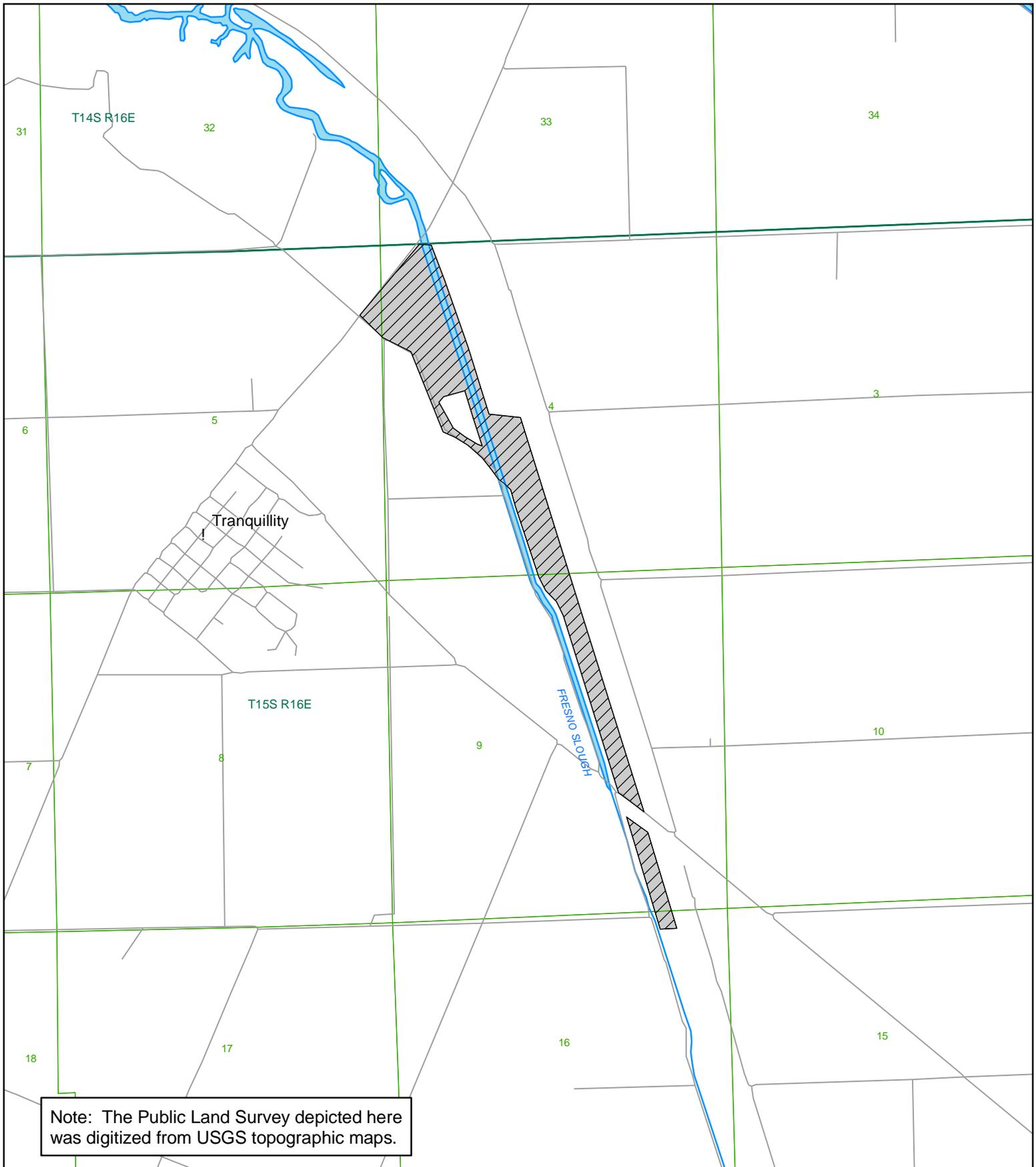
1189 TRANQUILLITY PUBLIC UTILITY  
1190 DISTRICT

1191 By: \_\_\_\_\_  
1192 President of the Board of Directors

1193 Attest:

1194 By: \_\_\_\_\_  
1195 Secretary of the Board of Directors

1196 (H:\Pub 440\LTRC\Final Draft LTRC's – Fresno, Tracy\09-23-04 Tranquillity PUD Final Draft  
1197 LTRC with exhibits.doc)



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

# Tranquillity Public Utility District

Contract No. 14-06-200-3537A-LTR1  
Exhibit A



-  Contractor's Service Area
-  District Boundary



EXHIBIT B  
TRANQUILLITY PUBLIC UTILITY DISTRICT  
Water Rates and Charges

Note: Rates and Charges are 2004 rates. This exhibit will be updated prior to execution of the contract to reflect the current Rates and Charges

<u>Cost-of-Service Rates</u>	<u>Irrigation Water</u>	<u>M&amp;I Water 1/</u>
Capital Rates	\$ 10.39	
O&M Rates:		
Water Marketing	7.59	
Storage	5.83	
Conveyance	2/	
Conveyance Pumping	2/	
Deficit Rates:		
Non-Interest Bearing	N/A	
Interest Bearing	13.24	
CFO/PFR Adj. Rate 3/	2.53	
<u>TOTAL COST-OF-SERVICE RATES</u>	<u>39.58</u>	

RRA Full Cost Rates:

Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981 \$ 42.61

Section 205(a)(3) - Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981 \$ 49.21

Charges Under P.L. 102-575 to Restoration Fund 4/ \$ 7.82

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

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

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

4/ 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)