

AG and M&I  
R. O. Final CVP-Wide Draft 4/19-2004  
Westside WD Draft 7/22-2003  
Westside WD Draft 7/07-2003  
Westside WD Draft 6/26-2003  
Westside WD Draft 6/25-2003  
R.O. Final CVP-Wide 6/10-2003  
Sac.Valley Division Draft 5/28-2003  
CVP-Wide Draft 5/23-2003  
Contract No.  
14-06-200-8222-LTR1

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

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

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Exhibit A - Map of Contractor's Boundaries

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5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES  
6 AND  
7 WESTSIDE WATER DISTRICT  
8 PROVIDING FOR PROJECT WATER SERVICE  
9 FROM THE SACRAMENTO RIVER DIVISION

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

20 WITNESSETH, That:

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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 Red Bluff Diversion Dam and the Tehama-Colusa Canal and related delivery facilities including pumping plants, hereinafter collectively referred to as the Canal 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>] WHEREAS, the Contractor and the United States entered into Contract No. 14-06-200-8222, as amended on September 16, 1964, which established terms for the delivery to the Contractor of Project Water from the Canal Facilities from March 16, 1960, through February 28, 1995, and under which the initial date of water delivery to the Contractor was January 1, 1982; and

[5<sup>th</sup>] WHEREAS, the Contractor and the United States have pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into interim renewal contract(s) identified as Contract No(s). 14-06-200-8222-IR1, 14-06-200-8222-IR2, 14-06-200-8222-IR3, 14-06-200-8222-IR4, 14-06-200-8222-IR5, 14-06-200-8222-IR6, and 14-06-200-8222-IR7, and 14-06-200-8222-IR8, the current of which is hereinafter referred to as the Existing Contract, which provided for the continued water service to the Contractor from March 1, 2004, through February 28, 2006; and

46 [5.1] WHEREAS, the United States and the County of Colusa entered into Contract  
47 No. 14-06-200-8310A which established terms for the delivery to the County of Colusa of Project  
48 Water from the Canal Facilities; and

49 [5.2] WHEREAS, the County of Colusa and the Contractor entered into a partial  
50 assignment on March 27, 2002, identified as Contract No. 14-06-200-8310X, to permanently assign  
51 to the Contractor 40,000 acre-feet of the Project Water made available to the County of Colusa  
52 pursuant to Contract No. 14-06-200-8310A; and

53 [5.3] WHEREAS, the Contractor desires to merge the Existing Contract and Contract  
54 No. 14-06-200-8310X into a single contract identified as Contract No. 14-06-200-8222-LTR1; and

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

60 [7<sup>th</sup>] WHEREAS, the United States has completed the PEIS and all other appropriate  
61 environmental review necessary to provide for long-term renewal of the Existing Contract; and

62 [8<sup>th</sup>] WHEREAS, the Contractor has requested the long-term renewal of the Existing  
63 Contract (merged with Contract No. 14-06-200-8310X), pursuant to the terms of the Existing  
64 Contract, Federal Reclamation law, and the laws of the State of California, for water service from  
65 the Project; and

66 [9<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all of  
67 its obligations under the Existing Contract and Contract No. 14-06-200-8310X; and

68 [10<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting  
69 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and  
70 beneficial use and, based upon a needs analysis cooperatively prepared by the Contracting Officer  
71 and the Contractor, has demonstrated projected future demand for water use that exceeds the  
72 Contract Total to be made available to it pursuant to this Contract; and

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

76 [12<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the Contractor's,  
77 depend upon the continued availability of water, including water service from the Project; and

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

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

87 [15<sup>th</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative  
88 relationship in order to achieve their mutual goals; and

89 [16<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into this  
90 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

93 DEFINITIONS

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

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

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

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

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

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

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

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

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

118 (i) "Excess Lands" shall mean all lands in excess of the limitations contained in  
119 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal  
120 Reclamation law;

121 (j) "Full Cost Rate" shall mean an annual rate, as determined by the Contracting  
122 Officer that shall amortize the expenditures for construction properly allocable to the Project  
123 irrigation or M&I functions, as appropriate, of facilities in service including all O&M deficits  
124 funded, less payments, over such periods as may be required under Federal Reclamation law, or

125 applicable contract provisions. Interest will accrue on both the construction expenditures and  
126 funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the date  
127 incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated in  
128 accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes actual  
129 operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules and  
130 Regulations for the RRA;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

184 TERM OF CONTRACT

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

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

197 (2) The conditions which must be met for this Contract to be renewed  
198 are: (i) the Contractor has prepared a water conservation plan that has been determined by the  
199 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and  
200 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is  
201 implementing an effective water conservation and efficiency program based on the Contractor's  
202 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is maintaining  
203 all water measuring devices and implementing all water measurement methods as approved by the  
204 Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has reasonably and  
205 beneficially used the Project Water supplies made available to it and, based on projected demands,

206 is reasonably anticipated and expects to fully utilize for reasonable and beneficial use the quantity  
207 of Project Water to be made available to it pursuant to such renewal; (v) the Contractor is  
208 complying with all terms and conditions of this Contract; and (vi) the Contractor has the physical  
209 and legal ability to deliver Project Water.

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

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

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

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

260 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

261 3. (a) During each Year, consistent with all applicable State water rights, permits,  
262 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this  
263 Contract, the Contracting Officer shall make available for delivery to the Contractor 65,000 acre-  
264 feet of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in  
265 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of  
266 Articles 4 and 7 of this Contract.

267 (b) Because the capacity of the Project to deliver Project Water has been  
268 constrained in recent years and may be constrained in the future due to many factors including  
269 hydrologic conditions and implementation of Federal and State laws, the likelihood of the  
270 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this Article  
271 in any given Year is uncertain. The Contracting Officer's modeling referenced in the PEIS  
272 projected that the Contract Total set forth in this Contract will not be available to the Contractor in  
273 many years. During the most recent five years, the Recent Historic Average of water made  
274 available to the Contractor was 59,800 acre-feet. Nothing in subdivision (b) of this Article shall  
275 affect the rights and obligations of the parties under any provision of this Contract.

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

278 (d) The Contractor shall make reasonable and beneficial use of all water  
279 furnished pursuant to this Contract. Ground-water recharge programs (direct, indirect, or in lieu),  
280 ground-water banking programs, surface water storage programs, and other similar programs  
281 utilizing Project Water or other water furnished pursuant to this Contract conducted within the  
282 Contractor's Boundaries which are consistent with applicable State law and result in use consistent  
283 with Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is  
284 (are) described in the Contractor's water conservation plan submitted pursuant to Article 26 of this  
285 Contract; Provided, further, That such water conservation plan demonstrates sufficient lawful uses  
286 exist in the Contractor's Boundaries so that using a long-term average, the quantity of Delivered

287 Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation  
288 law. Ground-water recharge programs, ground-water banking programs, surface water storage  
289 programs, and other similar programs utilizing Project Water or other water furnished pursuant to  
290 this Contract conducted outside the Contractor's Boundaries may be permitted upon written  
291 approval of the Contracting Officer, which approval will be based upon environmental  
292 documentation, Project Water rights, and Project operational concerns. The Contracting Officer  
293 will address such concerns in regulations, policies, or guidelines.

294 (e) The Contractor shall comply with requirements applicable to the Contractor  
295 in biological opinion(s) prepared as a result of a consultation regarding the execution of this  
296 Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as  
297 amended, that are within the Contractor's legal authority to implement. The Existing Contract,  
298 which evidences in excess of 21 years of diversions for irrigation and/or M&I purposes of the  
299 quantities of water provided in subdivision (a) of Article 3 of this Contract, will be considered in  
300 developing an appropriate baseline for biological assessment(s) prepared pursuant to the ESA, and  
301 any other needed environmental review. Nothing herein shall be construed to prevent the  
302 Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with  
303 respect to any biological opinion or other environmental documentation referred to in this Article.

304 (f) As soon as possible following each declaration of Water Made Available  
305 under Article 4 of this Contract, the Contracting Officer will make a determination whether Project  
306 Water, or other water available to the Project, can be made available to the Contractor in addition to  
307 the Contract Total under Article 3 of this Contract during the Year without adversely impacting  
308 other Project Contractors. At the request of the Contractor, the Contracting Officer will consult  
309 with the Contractor prior to making such a determination. If the Contracting Officer determines  
310 that Project Water, or other water available to the Project, can be made available to the Contractor,  
311 the Contracting Officer will announce the availability of such water and shall so notify the  
312 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor  
313 and other Project Contractors capable of taking such water to determine the most equitable and

314 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such  
315 water, the Contracting Officer shall make such water available to the Contractor in accordance with  
316 applicable statutes, regulations, guidelines, and policies.

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

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

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

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

340 TIME FOR DELIVERY OF WATER

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

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

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

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

364 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

365 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
366 Contract shall be delivered to the Contractor at approved turnouts on the Canal Facilities and any

367 additional point or points of delivery either on Project facilities or another location or locations  
368 mutually agreed to in writing by the Contracting Officer and the Contractor. The United States  
369 shall furnish such power as may be necessary to pump Project Water at the existing Tehama-Colusa  
370 Canal side pumping plants and at existing relift stations at heads and elevations sufficient to irrigate  
371 by gravity all areas within the Contractor's Boundaries below elevation 300 (MSL).

372 (b) The Contracting Officer, either directly or through its written agreement(s)  
373 with the Operating Non-Federal Entity/Entities shall make all reasonable efforts to maintain  
374 sufficient flows and levels of water in the Project facilities to deliver Project Water to the  
375 Contractor at specific turnouts established pursuant to subdivision (a) of this Article. The parties  
376 acknowledge that it may be necessary from time to time to shut down some or all of the Canal  
377 Facilities for maintenance or emergencies. Except in the case of emergency, the Contracting  
378 Officer shall consult with the Contractor to schedule the shut down at such times and for such  
379 duration as will allow for the work to be accomplished completely and efficiently, and with a  
380 minimum of disruption of water service to the Contractor. In this regard, shut downs will, to the  
381 extent reasonably possible, be limited to the months of December and January.

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

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

394 Operating Non-Federal Entity/Entities prior to making a final determination of the quantity  
395 delivered for that period of time.

396 (e) Neither the Contracting Officer nor any Operating Non-Federal  
397 Entity/Entities shall be responsible for the control, carriage, handling, use, disposal, or distribution  
398 of Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified  
399 in subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers,  
400 employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever  
401 for which there is legal responsibility, including property damage, personal injury, or death arising  
402 out of or connected with the control, carriage, handling, use, disposal, or distribution of such Water  
403 Delivered beyond such delivery points, except for any damage or claim arising out of (i) acts or  
404 omissions of the Contracting Officer or any of its officers, employees, agents, or assigns, including  
405 the Operating Non-Federal Entity/Entities, with the intent of creating the situation resulting in any  
406 damage or claim, (ii) willful misconduct of the Contracting Officer or any of its officers,  
407 employees, agents, or assigns, including the Operating Non-Federal Entity/Entities, (iii) negligence  
408 of the Contracting Officer or any of its officers, employees, agents, or assigns including the  
409 Operating Non-Federal Entity/Entities, or (iv) damage or claims resulting from a malfunction of  
410 facilities owned and/or operated by the United States or responsible Operating Non-Federal  
411 Entity/Entities.

412 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S BOUNDARIES

413 6. (a) The Contractor has established a measuring program satisfactory to the  
414 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation  
415 purposes within the Contractor's Boundaries is measured at each agricultural turnout and such water  
416 delivered for M&I purposes is measured at each M&I service connection. The water measuring  
417 devices or water measuring methods of comparable effectiveness must be acceptable to the  
418 Contracting Officer. The Contractor shall be responsible for installing, operating, and maintaining  
419 and repairing all such measuring devices and implementing all such water measuring methods at no  
420 cost to the United States. The Contractor shall use the information obtained from such water

421 measuring devices or water measuring methods to ensure its proper management of the water, to  
422 bill water users for water delivered by the Contractor; and, if applicable, to record water delivered  
423 for M&I purposes by customer class as defined in the Contractor's water conservation plan  
424 provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude the  
425 Contractor from establishing and collecting any charges, assessments, or other revenues authorized  
426 by California law. The Contractor shall include a summary of all its annual surface water deliveries  
427 in the annual report described in subdivision (c) of Article 26.

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

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

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

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

453 RATES AND METHOD OF PAYMENT FOR WATER

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

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

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

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

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

501 Project Water carried over under subdivision (g) of Article 3 of this Contract if such water is not  
502 delivered by the last day of February.

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

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

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

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

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

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

543           (j)     (1)     Beginning at such time as deliveries of Project Water in a Year  
544 exceed 80 percent of the Contract Total, then before the end of the month following the month of  
545 delivery the Contractor shall make an additional payment to the United States equal to the  
546 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water  
547 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the  
548 Contract Total, shall equal one-half of the difference between the Rate established under  
549 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate,  
550 whichever is applicable. The Tiered Pricing Component for the amount of Water Delivered which  
551 exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate established  
552 under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost  
553 Water Rate, whichever is applicable. For all Water Delivered pursuant to subdivision (a) of Article  
554 3 of this Contract which is in excess of 80 percent of the Contract Total, this increment shall be

555 deemed to be divided between Irrigation Water and M&I Water in the same proportion as actual  
556 deliveries of each bear to the cumulative total Water Delivered.

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

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

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

578                   (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,  
579 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted  
580 upward or downward to reflect the changed costs, if any, incurred by the Contracting Officer in the  
581 delivery of the transferred Project Water to the transferee's point of delivery in accordance with the

582 then applicable Project ratesetting policy. If the Contractor is receiving lower Rates and Charges  
583 because of inability to pay and is transferring Project Water to another entity whose Rates and  
584 Charges are not adjusted due to inability to pay, the Rates and Charges for transferred Project Water  
585 shall be the Contractor's Rates and Charges and will not be adjusted to reflect the Contractor's  
586 inability to pay.

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

589 (n) With respect to the Rates for M&I Water, the Contractor asserts that it is not  
590 legally obligated to repay any Project deficits claimed by the United States to have accrued as of the  
591 date of this Contract or deficit-related interest charges thereon. By entering into this Contract, the  
592 Contractor does not waive any legal rights or remedies that it may have with respect to such  
593 disputed issues. Notwithstanding the execution of this Contract, and payments made hereunder, the  
594 Contractor may challenge in the appropriate administrative or judicial forums: (1) the existence,  
595 computation, or imposition of any deficit charges accruing during the term of the Existing Contract  
596 and any preceding interim renewal contracts, if applicable; (2) interest accruing on any such  
597 deficits; (3) the inclusion of any such deficit charges or interest in the Rates; (4) the application by  
598 the United States of payments made by the Contractor under its Existing Contract and any interim  
599 renewal contracts, if applicable; and (5) the application of such payments in the Rates. The  
600 Contracting Officer agrees that the Contractor shall be entitled to the benefit of any administrative  
601 or judicial ruling in favor of any other Project M&I contractor on any of these issues, and credits for  
602 payments heretofore made, Provided, That the basis for such ruling is applicable to the Contractor.

603 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

607 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

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

633 (c) For a water transfer to qualify under subdivision (b) of this Article, such  
634 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous 3 years, for  
635 M&I use, ground-water recharge, ground-water banking, similar ground-water activities, surface  
636 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to  
637 established cropland, wildlife refuges, ground-water basins or M&I use; (ii) occur within a single  
638 Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water through existing  
639 facilities with no new construction or modifications to facilities and be between existing Project  
640 Contractors and/or the Contractor and the United States, Department of the Interior; and (v) comply  
641 with all applicable Federal, State, and local or tribal laws and requirements imposed for protection  
642 of the environment and Indian Trust Assets, as defined under Federal law.

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

648 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

665 TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

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

686 Contract within the Contractor's Boundaries by the Contractor or those claiming by, through, or  
687 under the Contractor.

688 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

699 (c) In any Year in which there may occur a shortage for any of the reasons  
700 specified in subdivision (b) above, the Contracting Officer shall apportion the available Project  
701 Water supply among the Contractor and others entitled, under existing contracts and future  
702 contracts (to the extent such future contracts are permitted under subsections (a) and (b) of Section  
703 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the contractual  
704 obligations of the United States.

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

708 UNAVOIDABLE GROUNDWATER PERCOLATION

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

713

RULES AND REGULATIONS

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

718

WATER AND AIR POLLUTION CONTROL

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

722

QUALITY OF WATER

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

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

737

WATER ACQUIRED BY THE CONTRACTOR  
OTHER THAN FROM THE UNITED STATES

738

739 17. (a) Water or water rights now owned or hereafter acquired by the Contractor  
740 other than from the United States and Irrigation Water furnished pursuant to the terms of this  
741 Contract may be simultaneously transported through the same distribution facilities of the

742 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water  
743 and non-Project water were constructed without funds made available pursuant to Federal  
744 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the  
745 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation  
746 Water must be established through the certification requirements as specified in the Acreage  
747 Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands  
748 within the Contractor's Boundaries can be established and the quantity of Irrigation Water to be  
749 utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the  
750 facilities utilized for commingling Irrigation Water and non-Project water are/were constructed with  
751 funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to  
752 the acreage limitation provisions of Federal Reclamation law, unless the Contractor pays to the  
753 United States the incremental fee described in 43 CFR 426.15. In determining the incremental fee,  
754 the Contracting Officer will calculate annually the cost to the Federal Government, including  
755 interest, on storing or delivering non-Project water, which for purposes of this Contract shall be  
756 determined as follows: The quotient shall be the unpaid distribution system costs divided by the  
757 total irrigable acreage within the Contractor's Boundaries. The incremental fee per acre is the  
758 mathematical result of such quotient times the interest rate determined using Section 202 (3) of the  
759 Act of October 12, 1982 (96 Stat. 1263). Such incremental fee will be charged to each acre of  
760 excess or full cost land within the Contractor's Boundaries that receives non-Project water through  
761 Federally financed or constructed facilities. The incremental fee calculation methodology will  
762 continue during the term of this Contract absent the promulgation of a contrary Reclamation-wide  
763 rule, regulation, or policy adopted after the Contractor has been afforded the opportunity to review  
764 and comment on the proposed rule, regulation, or policy. If such rule, regulation, or policy is  
765 adopted it shall supercede this provision.

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

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

771 (1) The Contractor may introduce non-Project water into Project facilities  
772 and deliver said water to lands within the Contractor's Boundaries, including Ineligible Lands,  
773 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an  
774 appropriate rate as determined by the applicable Project ratesetting policy, the RRA, and the Project  
775 use power policy, if such Project use power policy, each as amended, modified, or superceded from  
776 time to time.

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

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

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

793 (5) After Project purposes are met, as determined by the Contracting  
794 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of  
795 the facilities declared to be available by the Contracting Officer for conveyance and transportation

796 of non-Project water prior to any such remaining capacity being made available to non-Project  
797 contractors.

798 OPINIONS AND DETERMINATIONS

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

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

813 COORDINATION AND COOPERATION

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

822 exclusive decision making authority for all actions, opinions, and determinations to be made by the  
823 respective party.

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

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

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

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

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

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

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

847 (d) Without limiting the contractual obligations of the Contracting Officer under  
848 the other Articles of this Contract, nothing in this Article shall be construed to limit or constrain the

849 Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or  
850 other interested stakeholders or to make decisions in a timely fashion as needed to protect health,  
851 safety, or the physical integrity of structures or facilities.

852 CHARGES FOR DELINQUENT PAYMENTS

853 20. (a) The Contractor shall be subject to interest, administrative and penalty charges  
854 on delinquent installments or payments. When a payment is not received by the due date, the  
855 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.  
856 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative  
857 charge to cover additional costs of billing and processing the delinquent payment. When a payment  
858 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six  
859 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the  
860 Contractor shall pay any fees incurred for debt collection services associated with a delinquent  
861 payment.

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

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

870 EQUAL OPPORTUNITY

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

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

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

884 (c) The Contractor will send to each labor union or representative of workers  
885 with which it has a collective bargaining agreement or other contract or understanding, a notice, to

886 be provided by the Contracting Officer, advising the said labor union or workers' representative of  
887 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965,  
888 and shall post copies of the notice in conspicuous places available to employees and applicants for  
889 employment.

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

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

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

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

914 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

927 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

928 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
929 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the  
930 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws,  
931 as well as with their respective implementing regulations and guidelines imposed by the U.S.  
932 Department of the Interior and/or Bureau of Reclamation.

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

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

946 PRIVACY ACT COMPLIANCE

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

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

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

961 (d) The Contracting Officer shall designate a full-time employee of the Bureau of  
962 Reclamation to be the System Manager who shall be responsible for making decisions on denials

963 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is  
964 authorized to grant requests by individuals for access to their own records.

965 (e) The Contractor shall forward promptly to the System Manager each proposed  
966 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR  
967 2.71; notify the requester accordingly of such referral; and provide the System Manager with  
968 information and records necessary to prepare an appropriate response to the requester. These  
969 requirements do not apply to individuals seeking access to their own certification and reporting  
970 forms filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the  
971 Privacy Act as a basis for the request.

972 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

981 WATER CONSERVATION

982 26. (a) Prior to the delivery of water provided from or conveyed through Federally  
983 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be  
984 implementing an effective water conservation and efficiency program based on the Contractor's  
985 water conservation plan that has been determined by the Contracting Officer to meet the  
986 conservation and efficiency criteria for evaluating water conservation plans established under  
987 Federal law. The water conservation and efficiency program shall contain definite water  
988 conservation objectives, appropriate economically feasible water conservation measures, and time  
989 schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract  
990 shall be contingent upon the Contractor's continued implementation of such water conservation  
991 program. In the event the Contractor's water conservation plan or any revised water conservation  
992 plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been

993 determined by the Contracting Officer to meet such criteria, due to circumstances which the  
994 Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be  
995 made under this Contract so long as the Contractor diligently works with the Contracting Officer to  
996 obtain such determination at the earliest practicable date, and thereafter the Contractor immediately  
997 begins implementing its water conservation and efficiency program in accordance with the time  
998 schedules therein.

999 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of  
1000 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement  
1001 the Best Management Practices identified by the time frames issued by the California Urban Water  
1002 Conservation Council for such M&I Water unless any such practice is determined by the  
1003 Contracting Officer to be inappropriate for the Contractor.

1004 (c) The Contractor shall submit to the Contracting Officer a report on the status  
1005 of its implementation of the water conservation plan on the reporting dates specified in the then  
1006 existing conservation and efficiency criteria established under Federal law.

1007 (d) At five-year intervals, the Contractor shall revise its water conservation plan  
1008 to reflect the then-current conservation and efficiency criteria for evaluating water conservation  
1009 plans established under Federal law and submit such revised water management plan to the  
1010 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the  
1011 water conservation plan meets Reclamation's then-current conservation and efficiency criteria for  
1012 evaluating water conservation plans established under Federal law.

1013 (e) If the Contractor is engaged in direct ground-water recharge, such activity  
1014 shall be described in the Contractor's water conservation plan.

#### 1015 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1016 27. Except as specifically provided in Article 17 of this Contract, the provisions of this  
1017 Contract shall not be applicable to or affect non-Project water or water rights now owned or  
1018 hereafter acquired by the Contractor or any user of such water within the Contractor's Boundaries.  
1019 Any such water shall not be considered Project Water under this Contract. In addition, this Contract

1020 shall not be construed as limiting or curtailing any rights which the Contractor or any water user  
1021 within the Contractor's Boundaries acquires or has available under any other contract pursuant to  
1022 Federal Reclamation law.

1023 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1024 28. (a) The O&M of a portion of the Project facilities which serve the Contractor,  
1025 and responsibility for funding a portion of the costs of such O&M, have been transferred to the  
1026 Operating Non-Federal Entity by separate agreement between the United States and the Operating  
1027 Non-Federal Entity. That separate agreement shall not interfere with or affect the rights or  
1028 obligations of the Contractor or the United States hereunder.

1029 (b) The Contracting Officer has previously notified the Contractor in writing that  
1030 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the  
1031 Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating  
1032 Non-Federal Entity, or to any successor approved by the Contracting Officer under the terms and  
1033 conditions of the separate agreement between the United States and the Operating Non-Federal  
1034 Entity described in subdivision (a) of this Article, all rates, charges, or assessments of any kind,  
1035 including any assessment for reserve funds, which the Operating Non-Federal Entity or such  
1036 successor determines, sets, or establishes for the O&M of the portion of the Project facilities  
1037 operated and maintained by the Operating Non-Federal Entity or such successor. Such direct  
1038 payments to the Operating Non-Federal Entity or such successor shall not relieve the Contractor of  
1039 its obligation to pay directly to the United States the Contractor's share of the Project Rates,  
1040 Charges, and Tiered Pricing Component(s) except to the extent the Operating Non-Federal Entity  
1041 collects payments on behalf of the United States in accordance with the separate agreement  
1042 identified in subdivision (a) of this Article.

1043 (c) For so long as the O&M of any portion of the Project facilities serving the  
1044 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the  
1045 Contracting Officer shall adjust those components of the Rates for Water Delivered under this

1046 Contract representing the cost associated with the activity being performed by the Operating  
1047 Non-Federal Entity or its successor.

1048 (d) In the event the O&M of the Project facilities operated and maintained by  
1049 the Operating Non-Federal Entity is re-assumed by the United States during the term of this  
1050 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the  
1051 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the  
1052 Contractor for Project Water under this Contract representing the O&M costs of the portion of  
1053 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the  
1054 absence of written notification from the Contracting Officer to the contrary, pay the Rates,  
1055 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the  
1056 United States in compliance with Article 7 of this Contract.

1057 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1058 29. The expenditure or advance of any money or the performance of any obligation of  
1059 the United States under this Contract shall be contingent upon appropriation or allotment of  
1060 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any  
1061 obligations under this Contract. No liability shall accrue to the United States in case funds are  
1062 not appropriated or allotted.

1063 BOOKS, RECORDS, AND REPORTS

1064 30. (a) The Contractor shall establish and maintain accounts and other books and  
1065 records pertaining to administration of the terms and conditions of this Contract, including: the  
1066 Contractor's financial transactions, water supply data, and Project land and right-of-way  
1067 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use  
1068 data; and other matters that the Contracting Officer may require. Reports thereon shall be  
1069 furnished to the Contracting Officer in such form and on such date or dates as the Contracting  
1070 Officer may require. Subject to applicable Federal laws and regulations, each party to this  
1071 Contract shall have the right during office hours to examine and make copies of the other party's  
1072 books and records relating to matters covered by this Contract.

1073 (b) Notwithstanding the provisions of subdivision (a) of this Article, no  
1074 books, records, or other information shall be requested from the Contractor by the Contracting  
1075 Officer unless such books, records, or information are reasonably related to the administration or

1076 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
1077 time within which to provide the requested books, records, or information.

1078 (c) At such time as the Contractor provides information to the Contracting  
1079 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided  
1080 to the Operating Non-Federal Entity.

1081 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1082 31. (a) The provisions of this Contract shall apply to and bind the successors and  
1083 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1084 therein shall be valid until approved in writing by the Contracting Officer.

1085 (b) The assignment of any right or interest in this Contract by either party  
1086 shall not interfere with the rights or obligations of the other party to this Contract absent the  
1087 written concurrence of said other party.

1088 (c) The Contracting Officer shall not unreasonably condition or withhold his  
1089 approval of any proposed assignment.

1090 SEVERABILITY

1091 32. In the event that a person or entity who is neither (i) a party to a Project contract,  
1092 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)  
1093 an association or other form of organization whose primary function is to represent parties to  
1094 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1095 enforceability of a provision included in this Contract and said person, entity, association, or  
1096 organization obtains a final court decision holding that such provision is legally invalid or  
1097 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),  
1098 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such  
1099 final court decision identify by mutual agreement the provisions in this Contract which must be  
1100 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).  
1101 The time periods specified above may be extended by mutual agreement of the parties. Pending  
1102 the completion of the actions designated above, to the extent it can do so without violating any  
1103 applicable provisions of law, the United States shall continue to make the quantities of Project

1104 Water specified in this Contract available to the Contractor pursuant to the provisions of this  
1105 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1106 RESOLUTION OF DISPUTES

1107 33. Should any dispute arise concerning any provisions of this Contract, or the  
1108 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to  
1109 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting  
1110 Officer referring any matter to Department of Justice, the party shall provide to the other party  
1111 30 days' written notice of the intent to take such action; Provided, That such notice shall not be  
1112 required where a delay in commencing an action would prejudice the interests of the party that  
1113 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer  
1114 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,  
1115 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the  
1116 United States may have.

1117 OFFICIALS NOT TO BENEFIT

1118 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1119 Contractor shall benefit from this Contract other than as a water user or landowner in the same  
1120 manner as other water users or landowners.

1121 CHANGES IN CONTRACTOR'S BOUNDARIES

1122 35. (a) While this Contract is in effect, no change may be made in the  
1123 Contractor's Boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger,  
1124 or otherwise, except upon the Contracting Officer's written consent.

1125 (b) Within 30 days of receipt of a request for such a change, the Contracting  
1126 Officer will notify the Contractor of any additional information required by the Contracting  
1127 Officer for processing said request, and both parties will meet to establish a mutually agreeable  
1128 schedule for timely completion of the process. Such process will analyze whether the proposed  
1129 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;  
1130 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or  
1131 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)

1132 have an impact on any Project Water rights applications, permits, or licenses. In addition, the  
1133 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be  
1134 responsible for all costs incurred by the Contracting Officer in this process, and such costs will  
1135 be paid in accordance with Article 25 of this Contract.

1136 FEDERAL LAWS

1137 36. By entering into this Contract, the Contractor does not waive its rights to contest  
1138 the validity or application in connection with the performance of the terms and conditions of this  
1139 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with  
1140 the terms and conditions of this Contract unless and until relief from application of such Federal  
1141 law or regulation to the implementing provision of the Contract is granted by a court of  
1142 competent jurisdiction.

1143 NOTICES

1144 37. Any notice, demand, or request authorized or required by this Contract shall be  
1145 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
1146 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office,  
1147 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United  
1148 States, when mailed, postage prepaid, or delivered to the Board of Directors of the Westside  
1149 Water District, 5005 State Highway 20, Williams, California 95987. The designation of the  
1150 addressee or the address may be changed by notice given in the same manner as provided in this  
1151 Article for other notices.

1152 CONFIRMATION OF CONTRACT

1153 38. The Contractor, after the execution of this Contract, shall promptly seek to secure  
1154 a decree of a court of competent jurisdiction of the State of California, confirming the execution  
1155 of this Contract. The Contractor shall furnish the United States a certified copy of the final  
1156 decree, the validation proceedings, and all pertinent supporting records of the court approving  
1157 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on  
1158 the Contractor.



EXHIBIT A

[Map or Description of Boundaries]

EXHIBIT B  
Water Rates and Charges for Contract No. 14-06-200-8222-LTR1  
Westside Water District - Tehama-Colusa Canal  
 (Note: Rates and Charges shown are for 2003)

<u>COST OF SERVICE RATES:</u>	<u>Irrigation</u>	<u>M&amp;I</u>	Calculated Payment Capacity 1/ <u>Irrigation</u>
Capital Rates	\$ 10.10	3/	\$ 0.00
O&M Rates:			
Water Marketing	6.28		6.28
Storage	5.57		5.57
Direct Pumping	0.21		0.21
Deficit Rates:			
Interest Bearing	1.17		1.17
CFO/PFR Adjustment Rate 4/	<u>1.03</u>		<u>1.03</u>
TOTAL	<u>\$24.36</u>	<u>3/</u>	<u>\$14.26</u>

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. \$45.21 \$45.21

Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981. \$54.80 \$54.80

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

Restoration Payments (3407(d)(2)(A))	<u>\$ 7.69</u>	<u>\$15.38</u>	<u>\$ 0.00</u>
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1/ Established pursuant to the results of the Payment Capacity Analysis for the Tehama-Colusa Water Users Association Service Area as announced by letter dated \_\_\_\_\_.

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

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

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