

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
CONTRA COSTA WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
AND FOR FACILITIES REPAYMENT

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Exhibit A - Map of Contractor's Service Area

Exhibit B - Rates and Charges

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4 UNITED STATES
5 DEPARTMENT OF THE INTERIOR
6 BUREAU OF RECLAMATION
7 Central Valley Project, California

8 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
9 AND
10 CONTRA COSTA WATER DISTRICT
11 PROVIDING FOR PROJECT WATER SERVICE
12 AND FOR FACILITIES REPAYMENT

13 THIS CONTRACT, made this 10th day of May, 2005, in
14 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
15 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844),
16 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
17 July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263),
18 October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992
19 (106 Stat. 4706), all collectively hereinafter referred to as Federal Reclamation law, between
20 THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and
21 CONTRA COSTA WATER DISTRICT, hereinafter referred to as the Contractor, a public
22 agency of the State of California, duly organized, existing, and acting pursuant to the laws
23 thereof;

24 WITNESSETH, That:

EXPLANATORY RECITALS

25

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

32 [2nd] WHEREAS, the Contractor has constructed the Los Vaqueros Project, that is
33 intended to exclusively serve the Contractor to assist in attaining its goals of providing high
34 quality water to the Contractor's customers, while also providing reliability to the Contractor's
35 existing contract water supply during emergencies, droughts or other water shortages; and

36 [2.1] WHEREAS, it is necessary for the Contractor and the United States to agree on
37 how the Los Vaqueros Project will be utilized in conjunction with Project Water and Project
38 facilities; and

39 [3rd] WHEREAS, the rights to Project Water were acquired by the United States
40 pursuant to California law for operation of the Project; and

41 [4th] WHEREAS, the Contractor and the United States entered into Contract
42 No. I75r-3401, on September 18, 1951, which established terms for the delivery to the
43 Contractor of Project Water and for construction and repayment of certain facilities. This
44 contract was amended on November 9, 1970, April 26 1973, May 26, 1994 (hereinafter referred
45 to as Existing Contract), and February 7, 2000.

46 [4.1] WHEREAS, the United States and the Contractor executed Memorandum of
47 Agreement No. 14-06-200-6072A dated June 28, 1972, and subsequent Amendment 1 dated

48 May 15, 1995, that requires the Contractor to operate and maintain the Contra Costa Canal
49 System and Contra Loma Dam and Reservoir; and

50 [5th] WHEREAS, the United States and the Contractor have, pursuant to
51 Subsection 3404 (c) (3) of the Central Valley Project Improvement Act (CVPIA), subsequently
52 entered into a binding agreement, identified as Binding Agreement No. I75r-3401-BA, and
53 Supplemental Agreement No. I75r-3401-SA, which sets out the terms pursuant to which the
54 Contractor agreed to renew the Existing Contract before its expiration date after completion of a
55 programmatic environmental impact statement (PEIS) and other appropriate environmental
56 documentation and negotiation of a renewal contract, and which also sets out the consequences
57 of a subsequent decision not to renew; and

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

63 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
64 environmental review necessary to provide for long-term renewal of the Existing Contract; and

65 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
66 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws
67 of the State of California, for water service from the Project; and

68 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all
69 of its obligations under the Existing Contract; and

70 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
71 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
72 reasonable and beneficial use and/or has demonstrated projected future demand for water use
73 such that the Contractor has the capability and expects to utilize fully for reasonable and
74 beneficial use the quantity of Project Water to be made available to it pursuant to this Contract;
75 and

76 [11th] WHEREAS, water obtained from the Project has been relied upon by urban areas
77 within California for more than 50 years, and is considered by the Contractor as an essential
78 portion of its water supply; and

79 [12th] WHEREAS, the economies of regions within the Project, including the
80 Contractor's, depend upon the continued availability of water, including water service from the
81 Project; and

82 [13th] WHEREAS, in the CALFED Programmatic Record of Decision, dated August 28,
83 2000, the United States and the State of California adopted a general target of continuously
84 improving Delta water quality for all uses. The CALFED Agencies' target for providing safe,
85 reliable, and affordable drinking water in a cost-effective way, is to achieve either: (a) average
86 concentrations at Clifton Forebay and other southern and central Delta drinking water intakes of
87 50 ug/L bromide and 3.0 mg/L total organic carbon, or (b) an equivalent level of public health
88 protection using a cost-effective combination of alternative source waters, source control and
89 treatment technologies; and

90 [14th] WHEREAS, the Secretary intends through coordination, cooperation, and
91 partnerships to pursue measures to improve water supply, water quality, and reliability of the
92 Project for all Project purposes; and

93 [15th] WHEREAS, the mutual goals of the United States and the Contractor include: to
94 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
95 repayment of the Project as required by law; to guard reasonably against Project Water
96 shortages; to achieve a reasonable balance among competing demands for use of Project Water;
97 and to comply with all applicable environmental statutes, all consistent with the legal obligations
98 of the United States relative to the Project; and

99 [16th] WHEREAS, the parties intend by this Contract to develop a more cooperative
100 relationship in order to achieve their mutual goals; and

101 [17th] WHEREAS, the United States and the Contractor are willing to enter into this
102 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

105 DEFINITIONS

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

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

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

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

116 (c.1) "Contra Costa Canal System" shall mean the Contra Costa Canal,
117 including the intake channel from Rock Slough, Clayton, and Ygnacio Relift Canals and
118 pumping plants, the Martinez Reservoir and Pumping Plants 1, 2, 3, and 4, and such other
119 facilities as may be authorized by Congress from time to time for rehabilitation or replacement
120 thereof;

121 (c.2) "Contra Loma Dam and Reservoir" shall mean the dam, pumping plant,
122 and reservoir constructed as an addition to the Contra Costa Canal System;

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

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

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

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

134 (h-i) Omitted

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

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

145 (k - 1) Omitted;

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

149 (n) Omitted;

150 (n.1) "Lateral Distribution System" shall mean the water conveyance system
151 constructed by the United States which consists of pipelines extending to Contractor's water
152 users from the Contra Costa Canal at milepost 5.3, 6.2, 7.1, 7.3, 9.1, 14.0, 25.6, 36.6, and Y-2-6;

153 (n.2) "Los Vaqueros" shall mean the Los Vaqueros Project consisting of a
154 storage reservoir and associated facilities constructed by the Contractor on property which is
155 owned by the Contractor, and in which the United States has no legal interest, to store and
156 convey Los Vaqueros Water Rights Water and Project Water as well as additional water that
157 may be acquired by the Contractor;

158 (n.3) "Los Vaqueros Water Rights Water" shall mean that water appropriated
159 pursuant to State Water Rights Application 20245 (Permit 20749), which is in addition to Project
160 Water;

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

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

170 (p.1) "New Facilities" shall mean the Short Cut Pipeline located between
171 Contra Costa Canal at milepost 25.70 and at milepost 47.77 and the Pump Units in Pumping
172 Plant 1, 2, 3, and 4 of the Contra Costa Canal System;

173 (1) "Pump Units" shall mean the pump, motor, motor controls, wiring,
174 structural supports and discharge control apparatus for pumping 100 cubic feet per second
175 ("cfs") of water; and

176 (2) "Short Cut Pipeline" shall mean the Contra Costa Canal intake,
177 pipeline, pipeline appurtenances, Martinez Reservoir inlet;

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

181 (r) Omitted.

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

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

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

190 (u.1) "Project Works" shall mean all those facilities defined in subsections (c.1),
191 (c.2), (n.1), and (p.1) of this Article;

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

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

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

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

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

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

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

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

214 TERM OF CONTRACT

215 2. (a) This Contract shall be effective March 1, 2005, through February 28,
216 2045. This Contract when effective supersedes the Existing Contract. In the event the
217 Contractor wishes to renew this Contract beyond February 28, 2045, the Contractor shall submit
218 a request for renewal in writing to the Contracting Officer no later than two years prior to the
219 date this Contract expires.

220 (b) Omitted;

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

228 (d) The Contracting Officer shall make a determination ten years after the
229 date of execution of this Contract and every five years thereafter during the term of this Contract
230 of whether a conversion of this Contract to a contract under subsection 9 (c)(1) of the
231 Reclamation Project Act of 1939 can be accomplished. The Contracting Officer anticipates that
232 during the term of this Contract, all authorized Project construction expected to occur will have
233 occurred, and on that basis the Contracting Officer agrees upon such completion to allocate all
234 costs that are properly assignable to the Contractor, and agrees further that, at any time after such
235 allocation is made, and subject to satisfaction of the condition set out in this subdivision this
236 Contract shall, at the request of the Contractor, be converted to a contract under said subsection
237 (c)(1) of Section 9, is applicable of the Reclamation Project Act of 1939, subject to applicable
238 Federal law and under stated terms and conditions mutually agreeable to the Contractor and the
239 Contracting Officer. A condition for such conversion to occur shall be a determination by the
240 Contracting Officer that, account being taken of the amount credited to return by the Contractor
241 as provided for under Federal Reclamation law, the remaining amount of construction costs
242 assignable for ultimate return by the Contractor can probably be repaid to the United States
243 within the term of a contract under said subsection (c)(1) of Section 9. If the remaining amount
244 of costs that are properly assignable to the Contractor cannot be determined during the term of
245 this Contract, the Contracting Officer shall notify the Contractor, and provide the reason(s) why
246 such a determination could not be made. Further, the Contracting Officer shall make such a
247 determination as soon thereafter as possible so as to permit, upon request of the Contractor and
248 satisfaction of the conditions set out above, conversion to a contract under said subsection (c)(1)
249 of Section 9. In the event such determination of costs has not been made at a time which allows
250 conversion of this Contract during the term of this Contract or the Contractor has not requested

251 conversion of this Contract within such term, the parties shall incorporate in any subsequent
252 renewal contract as described in subdivision (b) of this Article a provision that carries forth in
253 substantially identical terms the provisions of this subdivision.

254 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

255 3. (a) During each Year, consistent with all applicable State water rights,
256 permits, and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of
257 this Contract, the Contracting Officer shall make available for delivery to the Contractor 195,000
258 acre-feet of Project Water for M&I purposes. Water Delivered to the Contractor in accordance
259 with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and
260 7 of this Contract.

261 (b) Because the capacity of the Project to deliver Project Water has been
262 constrained in recent years and may be constrained in the future due to many factors including
263 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
264 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this
265 Article in any given Year is uncertain. The Contracting Officer's most recent modeling
266 referenced in the PEIS projected that the Contract Total set forth in this Contract will not be
267 available to the Contractor in many years. During the most recent five years, the Recent Historic
268 Average of Water Made Available to the Contractor was 152,100 acre-feet. Nothing in
269 subdivision (b) of this Article shall affect the rights and obligations of the parties under any
270 provision of this Contract.

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

273 (d) The Contractor shall make reasonable and beneficial use of all Project
274 Water and other water furnished pursuant to subdivision (f) of this Article. Groundwater
275 recharge programs (direct, indirect, or in lieu), groundwater banking programs, surface water
276 storage programs, and other similar programs utilizing Project Water or other water furnished
277 pursuant to this Contract conducted within the Contractor's Service Area which are consistent
278 with applicable State law and result in use consistent with Federal Reclamation law will be
279 allowed; Provided, That any direct recharge program(s) is (are) described in the Contractor's
280 Water Conservation Plan submitted pursuant to Article 26 of this Contract; Provided, further,
281 That such Water Conservation Plan demonstrates sufficient lawful uses exist in the Contractor's
282 Service Area so that using a long-term average, the quantity of Delivered Water is demonstrated
283 to be reasonable for such uses and in compliance with Federal Reclamation law. Groundwater
284 recharge programs, groundwater banking programs, surface water storage programs, and other
285 similar programs utilizing Project Water or other water furnished pursuant to this Contract
286 conducted outside the Contractor's Service Area may be permitted upon written approval of the
287 Contracting Officer, which approval will be based upon environmental documentation, Project
288 Water rights, and Project operational concerns. The Contracting Officer will address such
289 concerns in regulations, policies, or guidelines.

290 (e) The Contractor shall comply with requirements applicable to the
291 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
292 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),
293 as amended, that are within the Contractor's legal authority to implement. The Existing
294 Contract, which evidences in excess of 50 years of diversions for irrigation and/or M&I purposes
295 of the quantities of water provided in subdivision (a) of Article 3 of this Contract, will be

296 considered in developing an appropriate baseline for biological assessment(s) prepared pursuant
297 to the ESA, and any other needed environmental review. Nothing herein shall be construed to
298 prevent the Contractor from challenging or seeking judicial relief in a court of competent
299 jurisdiction with respect to any biological opinion or other environmental documentation referred
300 to in this Article.

301 (f) Following the declaration of Water Made Available under Article 4 of this
302 Contract, the Contracting Officer will make a determination whether Project Water, or other
303 water available to the Project, can be made available to the Contractor in addition to the Contract
304 Total under this Article during the Year without adversely impacting other Project Contractors.
305 At the request of the Contractor, the Contracting Officer will consult with the Contractor prior to
306 making such a determination. If the Contracting Officer determines that Project Water, or other
307 water available to the Project, can be made available to the Contractor, the Contracting Officer
308 will announce the availability of such water and shall so notify the Contractor as soon as
309 practical. The Contracting Officer will thereafter meet with the Contractor and other Project
310 Contractors capable of taking such water to determine the most equitable and efficient allocation
311 of such water. If the Contractor requests the delivery of any quantity of such water, the
312 Contracting Officer shall make such water available to the Contractor in accordance with
313 applicable statutes, regulations, guidelines, and policies.

314 (g) The Contractor may request permission to reschedule for use during the
315 subsequent Year some or all of the Water Made Available to the Contractor during the current
316 Year, referred to as "rescheduled water." The Contractor may request permission to use during
317 the current Year, a quantity of Project Water which may be made available by the United States
318 to the Contractor during the subsequent Year referred to as "preuse." The Contracting Officer's

319 written approval may permit such uses in accordance with applicable statutes, regulations,
320 guidelines, and policies.

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

329 (i) Project Water furnished to the Contractor pursuant to this Contract may be
330 delivered for purposes other than those described in subdivision (o) of Article 1 of this Contract
331 upon written approval by the Contracting Officer in accordance with the terms and conditions of
332 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;
337 Provided, That the Contracting Officer retains the right to object to the substance of the
338 Contractor's position in such a proceeding; Provided further, That in such proceedings the
339 Contracting Officer shall recognize the Contractor has a legal right under the terms of this
340 Contract to use Project Water.

341 TIME FOR DELIVERY OF WATER

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

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

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

361 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
362 Contract, the United States shall deliver Project Water to the Contractor in accordance with the
363 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any

364 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
365 time prior to the date(s) on which the requested change(s) is/are to be implemented.

366 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

367 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
368 Contract shall be delivered to the Contractor at Rock Slough at the intake of Pumping Plant 1 of
369 the Contra Costa Canal System or in the Sacramento-San Joaquin Delta at the intake and any
370 additional point or points of delivery either on Project facilities or another location or locations
371 mutually agreed to in writing by the Contracting Officer and the Contractor. Such deliveries at
372 the Sacramento-San Joaquin Delta may be made at the intake to the Tracy Pumping Plant of the
373 Project at Old River, the intake of the State Water Project to Clifton Court at Old River and/or
374 the intake to Los Vaqueros at Old River. Los Vaqueros Water Rights Water shall be delivered
375 and/or diverted in the Sacramento-San Joaquin Delta. Said point(s) of delivery and/or diversion
376 of Project Water and Los Vaqueros Water Rights Water shall be subject to change by written
377 agreements of the parties hereto: Provided, That such change(s) is/are consistent with the
378 applicable state water right permit(s) or license(s) as they may be amended or modified. The
379 United States shall not be obligated to construct additional facilities for the delivery and/or
380 diversion of water under this Contract.

381 (b) Omitted.

382 (c) The Contractor shall not deliver Project Water to land outside the
383 Contractor's Service Area unless approved in advance by the Contracting Officer.

384 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
385 measured and recorded with equipment furnished, installed, operated, and maintained by the
386 United States, or the Contractor at the point or points of delivery established pursuant to

387 subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting
388 Officer or the Contractor shall investigate the accuracy of such measurements and shall take any
389 necessary steps to adjust any errors appearing therein. For any period of time when accurate
390 measurements have not been made, the Contracting Officer shall consult with the Contractor
391 prior to making a final determination of the quantity delivered for that period of time.

392 (e) The Contracting Officer shall not be responsible for the control, carriage,
393 handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
394 Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor
395 shall indemnify the United States, its officers, employees, agents, and assigns on account of
396 damage or claim of damage of any nature whatsoever for which there is legal responsibility,
397 including property damage, personal injury, or death arising out of or connected with the control,
398 carriage, handling, use, disposal, or distribution of such Water Delivered beyond such delivery
399 points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting
400 Officer or any of its officers, employees, agents, or assigns, with the intent of creating the
401 situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or
402 any of its officers, employees, agents, or assigns; (iii) negligence of the Contracting Officer or
403 any of its officers, employees, agents, or assigns; or (iv) damage or claims resulting from a
404 malfunction of facilities owned and/or operated by the United States; Provided, That the
405 Contractor is not the entity that owned or operated the malfunctioning facility(ies) from which
406 the damage claim arose.

407 (f) Water diverted by the Contractor pursuant to this Contract shall be
408 measured and recorded by the Contractor for each of the points set forth below through
409 measuring and recording devices, acceptable to the Contracting Officer: Provided, The parties

410 thereto, may agree in writing that such points and/or method of water measurement may be
411 changed or added to. Except for Rock Slough at the intake of Pumping Plant 1, the Contractor
412 shall O&M each of the measuring and recording devices at no cost to the United States. The
413 Contractor shall install all measuring and recording devices:

- 414 (1) At the intake to Pumping Plant 1 of the Contra Costa Canal
415 System;
- 416 (2) At the Los Vaqueros intake in Old River;
- 417 (3) At the intake to the Los Vaqueros storage reservoir; and
- 418 (4) At the point at which the Los Vaqueros Water Rights Water and
419 Project Water diverted from other than Rock Slough are introduced into the Contra Costa Canal
420 System from Los Vaqueros;

421 (g) The Contractor shall measure or compute and record daily, or at such
422 other intervals as may be agreed upon in writing by the parties, and provide to the United States
423 on or before the 20th day of each month following the month in which the measurement or
424 computation was made the rates and quantities associated with the following:

- 425 (1) Diversion of Project Water at Rock Slough;
- 426 (2) Diversion of Project Water from Old River for direct use;
- 427 (3) Diversion of Los Vaqueros Water Rights Water to storage in Los
428 Vaqueros storage reservoir;
- 429 (4) Diversion of Project Water to storage in Los Vaqueros storage
430 reservoir;
- 431 (5) Diversion to storage in Contra Loma Dam and Reservoir;
- 432 (6) Withdrawal of Project Water from Los Vaqueros storage reservoir;

433 (7) Withdrawal of Los Vaqueros Water Rights Water from Los
434 Vaqueros storage reservoir;

435 (8) Withdrawal of water from Contra Loma Dam and Reservoir for
436 delivery to the East Bay Regional Park District pursuant to Contract No. 4-06-200-6023A, dated
437 September 18, 1972, as amended on November 29, 1977;

438 (9) Withdrawal of water from Contra Loma Dam and Reservoir for
439 purposes other than that specified in subdivision (g)(8) above; and

440 (10) Total M&I water distributed.

441 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

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

455 include a summary of all its annual surface water deliveries in the annual report described in
456 subdivision (c) of Article 26.

457 (b) To the extent the information has not otherwise been provided, upon
458 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
459 report describing the measurement devices or water measuring methods being used or to be used
460 to implement subdivision (a) of this Article and identifying the M&I service connections or
461 alternative measurement programs approved by the Contracting Officer, at which such
462 measurement devices or water measuring methods are being used, and, if applicable, identifying
463 the locations at which such devices and/or methods are not yet being used including a time
464 schedule for implementation at such locations. The Contracting Officer shall advise the
465 Contractor in writing within 60 days as to the adequacy and necessary modifications, if any, of
466 the measuring devices or water measuring methods identified in the Contractor's report and if the
467 Contracting Officer does not respond in such time, they shall be deemed adequate. If the
468 Contracting Officer notifies the Contractor that the measuring devices or methods are
469 inadequate, the parties shall within 60 days following the Contracting Officer's response,
470 negotiate in good faith the earliest practicable date by which the Contractor shall modify said
471 measuring devices and/or measuring methods as required by the Contracting Officer to ensure
472 compliance with subdivision (a) of this Article.

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

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

479 (e) Omitted.

480 RATES AND METHOD OF PAYMENT FOR WATER

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

491 (a.1) The payment to be made by the Contractor for Los Vaqueros Water Rights
492 Water and Project Water Made Available to it pursuant to this Contract shall be the applicable
493 Rates and Charges determined annually in accordance with the applicable Federal law and
494 associated regulations.

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

497 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
498 provide the Contractor an estimate of the Charges for Project Water that will be applied to the

499 period October 1, of the current Calendar Year, through September 30, of the following Calendar
500 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months
501 to review and comment on such estimates. On or before September 15 of each Calendar Year,
502 the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during
503 the period October 1 of the current Calendar Year, through September 30, of the following
504 Calendar Year, and such notification shall revise Exhibit "B."

505 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
506 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Components
507 for Project Water for the following Year and the computations and cost allocations upon which
508 those Rates are based. The Contractor shall be allowed not less than two months to review and
509 comment on such computations and cost allocations. By December 31 of each Calendar Year,
510 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing
511 Components to be in effect for the upcoming Year, and such notification shall revise Exhibit
512 "B."

513 (c) At the time the Contractor submits the initial schedule for the delivery of
514 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
515 Contractor shall make an advance payment to the United States equal to the total amount payable
516 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
517 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
518 Year. Before the end of the first month and before the end of each calendar month thereafter, the
519 Contractor shall make an advance payment to the United States, at the Rate(s) set under
520 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
521 during the second month immediately following. Adjustments between advance payments for

522 Water Scheduled and amounts due for Water Delivered shall be made before the end of the
523 following month; Provided, That any revised schedule submitted by the Contractor pursuant to
524 Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
525 Contract during any month shall be accompanied with appropriate advance payment, at the Rates
526 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
527 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
528 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
529 additional Project Water shall be delivered to the Contractor unless and until an advance
530 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
531 between the advance payments for the Water Scheduled and payments for the quantities of Water
532 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
533 later than April 30th of the following Year, or 60 days after the delivery of Project Water
534 rescheduled under subdivision (g) of Article 3 of this Contract if such water is not delivered by
535 the last day of February.

536 (d) The Contractor shall also make a payment in addition to the Rate(s) in
537 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
538 appropriate Tiered Pricing Component then in effect, before the end of the month following the
539 month of delivery. The payments shall be consistent with the quantities of M&I Water Delivered
540 as shown in the water delivery report for the subject month prepared by the Contractor. The
541 water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered
542 Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of
543 Charges shall be made through the adjustment of payments due to the United States for Charges

544 for the next month. Any amount to be paid for past due payment of Charges and the Tiered
545 Pricing Component shall be computed pursuant to Article 20 of this Contract.

546 (e) The Contractor shall pay for any Water Delivered under subdivision (a),
547 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to
548 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting
549 policies; Provided, That the Rates for Water Delivered under subdivision (f) of Article 3 of this
550 Contract shall be no more than the otherwise applicable Rates for M&I Water under subdivision
551 (a) of this Article.

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

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

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

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

573 (j) (1) Beginning at such time as deliveries of Project Water in a Year
574 exceed 80 percent of the Contract Total, then before the end of the month following the month of
575 delivery the Contractor shall make an additional payment to the United States equal to the
576 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
577 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
578 Contract Total, shall equal one-half of the difference between the Rates established under
579 subdivision (a) of this Article and the M&I Full Cost Water Rate. The Tiered Pricing
580 Component for the amount of Water Delivered which exceeds 90 percent of the Contract Total
581 shall equal the difference between (i) the Rates established under subdivision (a) of this Article
582 and (ii) M&I Full Cost Water Rate.

583 (2) Omitted.

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

589 (4) The Tiered Pricing Component does not apply to Los Vaqueros
590 Water Rights Water.

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

599 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
600 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
601 adjusted upward or downward to reflect the changed costs, if any, incurred by the Contracting
602 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in
603 accordance with the then applicable Project ratesetting policy.

604 (m) Omitted.

605 (n) Omitted.

606 REPAYMENT OF PROJECT WORKS

607 7.1. (a) Contra Costa Canal System. The remaining capitalized cost of the Contra
608 Costa Canal System on December 31, 2004, was \$839,101. The Contractor shall fully repay
609 \$914,032.56, including interest at 2.5 percent per annum, by making six annual payments of
610 \$152,338.76, beginning January 1, 2005, and ending January 1, 2010.

611 (b) New Facilities. The remaining capitalized cost of the New Facilities on
612 December 31, 2004, was \$1,446,457.07. The Contractor shall fully repay \$1,620,281.05, plus
613 interest at 3.342 percent per annum, by making six annual payments of \$270,046.84 beginning
614 January 1, 2005, and ending January 1, 2010.

615 (c) Contra Loma Dam and Reservoir. The remaining capitalized costs of the
616 Contra Loma Dam and Reservoir on December 31, 2004, was \$1,689,039.16. The Contractor
617 shall fully repay \$1,879,257.85, including interest at 3.137 percent per annum, by making six
618 annual payments of \$313,209.63 beginning January 1, 2005, and ending January 1, 2010.

619 (d) The Contractor may, instead of making the payments provided for in
620 subdivisions (a), (b), and (c) above, at any time, make full payment of the sum then due and
621 owing on any or all of the facilities described in those subdivisions: Provided, That the
622 Contractor agrees that such accelerated repayment shall not exempt the Contractor from
623 compliance with the otherwise applicable ownership and full cost pricing provisions of Federal
624 Reclamation laws. If payment is made at any time in the year other than that specified in
625 subdivisions (a), (b), and (c) of this Article, the remaining payment balance as of such date will
626 be determined by the Contracting Officer and provided to the Contractor. Upon full repayment,
627 the Contractor shall have no further repayment obligations associated with the capitalized costs
628 specified in subdivisions (a), (b), and (c) of this Article.

629 8. Omitted.

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633 SALES, TRANSFERS, OR EXCHANGES OF WATER

634 9. (a) The right to receive Project Water provided for in this Contract may be
635 sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of
636 California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,
637 and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project
638 Water under this Contract may take place without the prior written approval of the Contracting
639 Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or
640 exchanges shall be approved absent all appropriate environmental documentation, including but
641 not limited to, documents prepared pursuant to the NEPA and ESA. Such environmental
642 documentation should include, as appropriate, an analysis of groundwater impacts and economic
643 and social effects, including environmental justice, of the proposed water transfers on both the
644 transferor and transferee.

645 (b) In order to facilitate efficient water management by means of water
646 transfers of the type historically carried out among Project Contractors located within the same
647 geographical area and to allow the Contractor to participate in an accelerated water transfer
648 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,
649 all necessary environmental documentation including but not limited to documents prepared
650 pursuant to NEPA and ESA analyzing annual transfers within such geographical areas and the
651 Contracting Officer shall determine whether such transfers comply with applicable law.
652 Following the completion of the environmental documentation, such transfers addressed in such
653 documentation shall be conducted with advance notice to the Contracting Officer, but shall not
654 require prior written approval by the Contracting Officer. Such environmental documentation
655 and the Contracting Officer's compliance determination shall be reviewed every five years and

656 updated, as necessary, prior to the expiration of the then existing five-year period. All
657 subsequent environmental documentation shall include an alternative to evaluate not less than the
658 quantity of Project Water historically transferred within the same geographical area.

659 (c) For a water transfer to qualify under subdivision (b) of this Article, such
660 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three
661 years, for M&I use, groundwater recharge, groundwater banking, or similar groundwater
662 activities, surface water storage, or fish and wildlife resources; not lead to land conversion; and
663 be delivered to established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur
664 within a single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water
665 through existing facilities with no new construction or modifications to facilities and be between
666 existing Project Contractors and/or the Contractor and the United States, Department of the
667 Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and
668 requirements imposed for protection of the environment and Indian Trust Assets, as defined
669 under Federal law.

670 PROJECT USE POWER

671 9.1. (a) During each Year, the United States shall furnish to the Contractor the
672 quantity of Project use power, not to exceed 164.8 kWh of energy for each acre-foot of Project
673 Water or Los Vaqueros Water Rights Water, required to operate facilities needed to pump
674 through the Contra Costa Canal System and Contra Loma Dam and Reservoir the full quantity of
675 Project Water scheduled and the Los Vaqueros Water Rights Water forecasted for delivery and
676 diversion to and by the Contractor for use within the Contractor's Service Area during that Year.
677 Such quantity of Project use power may be utilized at one or more of the following locations: the
678 Contra Costa Canal System; the intake of Los Vaqueros in Old River; Contra Loma Dam and

679 Reservoir; and such other points of diversion set forth in Article 5(a) as may be mutually agreed
680 upon. Project use power can only be used to convey Project Water or Los Vaqueros Water
681 Rights Water and shall be available to pump no more than 195,000 acre-feet annually.

682 (b) The United States may, at any time, request in writing that the Contractor
683 take delivery of some or all of the Project Water Made Available to the Contractor pursuant to
684 this Contract at the point of diversion for Los Vaqueros Water Rights Water in lieu of taking
685 delivery of such water at the intake of Pumping Plant 1 of the Contra Costa Canal System at
686 Rock Slough. If the Contractor agrees in writing to such a request, the United States shall
687 furnish to the Contractor during the term of the agreement, the quantity of Project use power
688 required to pump said Project Water and Los Vaqueros Water Rights Water from the point of
689 diversion for Los Vaqueros Water Rights Water to the Los Vaqueros transfer reservoir, not to
690 exceed 350 kWh of energy per acre-foot; Provided, That such a written agreement by the parties
691 for the delivery to and diversion at the point of diversion for Los Vaqueros Water Rights Water
692 of the full supply of Project Water Made Available under this Contract during the term of such
693 agreement shall not be implemented absent modification acceptable to the Contracting Officer of
694 applicable Sacramento-San Joaquin Delta water quality standards during the entire term of such
695 agreement.

696 (c) If the Contracting Officer and the Contractor are required under any
697 biological opinion issued by an agency of the United States to take delivery of some or all of the
698 Project Water Made Available to the Contractor pursuant to this Contract at the point of
699 diversion for Los Vaqueros Water Rights Water in lieu of taking delivery of such water at the
700 intake to Pumping Plant 1 of the Contra Costa Canal System at Rock Slough, the United States
701 shall furnish to the Contractor the quantity of Project use power required to pump said Project

702 water from the point of diversion for Los Vaqueros Water Rights Water to the Los Vaqueros
703 transfer reservoir, not to exceed 350 kWh of energy per acre-foot; Provided, That the quantity of
704 Project use power furnished pursuant to this subdivision shall not exceed the quantity of Project
705 use power needed to convey the quantity of Project Water diverted at the point of diversion of
706 Los Vaqueros Water Rights Water for immediate delivery through the Contra Costa Canal; and
707 Provided further, That the Contractor shall notify the Contracting Officer by March 1 of each
708 calendar year, in accordance with the written schedules submitted pursuant to Article 4(b), of the
709 projected quantity of Project Water which will be pumped with Project use power described in
710 this subdivision.

711 (d) The Contractor shall pay the United States for the quantity of Project use
712 power as set forth in subdivision (a), (b), and (c) above as a component of the water Rates
713 described in Article 7(a) of this Contract.

714 (e) The Contracting Officer may adjust the quantity of Project use power
715 required to pump each acre-foot of Project Water or Los Vaqueros Water Rights Water if the
716 Contracting Officer determines based on substantial evidence that the actual energy required for
717 such pumping is different from the quantity set forth in this Article. Such determinations and
718 adjustments by the Contracting Officer shall not require further amendment to this Contract.

719 APPLICATION OF PAYMENTS AND ADJUSTMENTS

720 10. (a) The amount of any overpayment by the Contractor of the Contractor's
721 O&M, interest, capital, and deficit (if any) obligations for the Year shall be applied first to any
722 current liabilities of the Contractor arising out of this Contract then due and payable.
723 Overpayments of more than \$1,000 shall be refunded at the Contractor's request. In lieu of a
724 refund, any amount of such overpayment, at the option of the Contractor, may be credited against

725 amounts to become due to the United States by the Contractor. With respect to overpayment,
726 such refund or adjustment shall constitute the sole remedy of the Contractor or anyone having or
727 claiming to have the right to the use of any of the Project Water supply provided for herein. All
728 credits and refunds of overpayments shall be made within 30 days of the Contracting Officer
729 obtaining direction as to how to credit or refund such overpayment in response to the notice to
730 the Contractor that it has finalized the accounts for the Year in which the overpayment was
731 made.

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

TEMPORARY REDUCTIONS--RETURN FLOWS

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

742 (b) The Contracting Officer may temporarily discontinue or reduce the
743 quantity of Water Delivered to the Contractor as herein provided for the purposes of
744 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or
745 any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
746 feasible the Contracting Officer will give the Contractor due notice in advance of such temporary

747 discontinuance or reduction, except in case of emergency, in which case no notice need be given;
748 Provided, That the United States shall use its best efforts to avoid any discontinuance or
749 reduction in such service. Upon resumption of service after such reduction or discontinuance,
750 and if requested by the Contractor, the United States will, if possible, deliver the quantity of
751 Project Water which would have been delivered hereunder in the absence of such discontinuance
752 or reduction.

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

759 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

770 (c) Omitted.

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

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

781 13. Omitted.

782 RULES AND REGULATIONS

783 14. The parties agree that the delivery of M&I Water or use of Federal facilities
784 pursuant to this Contract is subject to the applicable provisions of Federal Reclamation law, and
785 any applicable rules and regulations promulgated by the Secretary of the Interior under such law.

786 WATER AND AIR POLLUTION CONTROL

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

791 QUALITY OF WATER

792 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant
793 to this Contract shall be operated and maintained to enable the United States to deliver Project
794 Water to the Contractor in accordance with the water quality standards specified in subsection
795 2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of

796 October 27, 1986 (100 Stat. 3050) or other existing Federal laws. The United States is under no
797 obligation to construct or furnish water treatment facilities to maintain or to improve the quality
798 of Water Delivered to the Contractor pursuant to this Contract. The United States does not
799 warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

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

807 WATER ACQUIRED BY THE CONTRACTOR
808 OTHER THAN FROM THE UNITED STATES

809 17. (a) Omitted.

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

815 (1) The Contractor may introduce non-Project water into Project
816 facilities, other than Project Works, subject to payment to the United States of an appropriate rate
817 as determined by the applicable Project ratesetting policy and the RRA, and the Project use
818 power policy, if such Project use power policy is applicable, each as amended, modified, or
819 superseded from time to time. In addition, if electrical power is required to pump non-Project

820 water through the facilities, the Contractor shall be responsible for obtaining the necessary power
821 and paying the necessary charges therefore.

822 (2) Delivery of such non-Project water in and through Project
823 facilities, other than Project Works, shall only be allowed to the extent such deliveries do not:
824 (i) interfere with other Project purposes as determined by the Contracting Officer; (ii) reduce the
825 quantity or quality of water available to other Project Contractors; (iii) interfere with the delivery
826 of contractual water entitlements to any other Project Contractors; or (iv) interfere with the
827 physical maintenance of the Project facilities.

828 (c) The Contractor may use Project Works to convey non-Project water,
829 subject to each of the following conditions:

830 (1) Such conveyance shall not interfere with deliveries of water
831 hereunder;

832 (2) Non-Project water for irrigation use shall be utilized in accordance
833 with the applicable acreage limitation provisions of the Federal Reclamation laws;

834 (3) Project use power shall not be used to pump or convey non-Project
835 water except as provided for in Article 9.1(a);

836 (4) The United States shall not incur any liability or unreimbursed cost
837 or expense thereby;

838 (5) The quantities of non-Project water introduced into and conveyed
839 through the Project Works shall be measured or otherwise determined by the Contractor in a
840 manner consistent with Article 6 of this Contract, acceptable to the Contracting Officer and at no
841 cost to the United States;

842 (6) The amount the Contractor is to pay to the United States for
843 conveying non-Project water through Project Works shall be determined annually by the United
844 States in accordance with the applicable provisions of Federal law, including but not limited to
845 the Warren Act of February 21, 1911 (36 Stat. 935), as amended and supplemented, associated
846 regulations, and the then-current applicable federal ratesetting policies.

847 (d) The United States shall not be responsible for control, care, or distribution
848 of the non-Project water before it is introduced into or after it is delivered from the Project
849 facilities. The Contractor hereby releases and agrees to defend and indemnify the United States
850 and their respective officers, agents, and employees, from any claim for damage to persons or
851 property, direct or indirect, resulting from the Contractor's or its officers', employees', agents',
852 or assigns', act(s) of (i) extracting or diverting non-Project water from any source, or (ii)
853 diverting such non-Project water into Project facilities.

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

857 (f) After Project purposes are met, as determined by the Contracting Officer,
858 the United States and the Contractor shall share priority to utilize the remaining capacity of the
859 facilities declared to be available by the Contracting Officer for storage, conveyance, and
860 transportation of non-Project water prior to any such remaining capacity being made available to
861 non-Project contractors.

862 OPINIONS AND DETERMINATIONS

863 18. (a) Where the terms of this Contract provide for actions to be based upon the
864 opinion or determination of either party to this Contract, said terms shall not be construed as

865 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
866 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
867 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,
868 or unreasonable opinion or determination. Each opinion or determination by either party shall be
869 provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is
870 intended to or shall affect or alter the standard of judicial review applicable under Federal law to
871 any opinion or determination implementing a specific provision of Federal law embodied in
872 statute or regulation.

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

878 COORDINATION AND COOPERATION

879 19. (a) In order to further their mutual goals and objectives, the Contracting
880 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
881 with other affected Project Contractors, in order to improve the operation and management of the
882 Project. The communication, coordination, and cooperation regarding operations and
883 management shall include, but not be limited to, any action which will or may materially affect
884 the quantity or quality of Project Water supply, the allocation of Project Water supply, and
885 Project financial matters including, but not limited to, budget issues. The communication,
886 coordination, and cooperation provided for hereunder shall extend to all provisions of this

887 Contract. Each party shall retain exclusive decision making authority for all actions, opinions,
888 and determinations to be made by the respective party.

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

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

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

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

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

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

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

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

918 CHARGES FOR DELINQUENT PAYMENTS

919 20. (a) The Contractor shall be subject to interest, administrative and penalty
920 charges on delinquent installments or payments. When a payment is not received by the due
921 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
922 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an
923 administrative charge to cover additional costs of billing and processing the delinquent payment.
924 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional
925 penalty charge of six (6%) percent per year for each day the payment is delinquent beyond the
926 due date. Further, the Contractor shall pay any fees incurred for debt collection services
927 associated with a delinquent payment.

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

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

936 EQUAL OPPORTUNITY

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

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

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

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

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

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

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

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

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

981 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

994 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

995 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
996 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
997 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
998 laws, as well as with their respective implementing regulations and guidelines imposed by the
999 U.S. Department of the Interior and/or Bureau of Reclamation.

1000 (b) These statutes require that no person in the United States shall, on the
1001 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
1002 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
1003 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the
1004 Contractor agrees to immediately take any measures necessary to implement this obligation,
1005 including permitting officials of the United States to inspect premises, programs, and documents.

1006 (c) The Contractor makes this agreement in consideration of and for the
1007 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
1008 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
1009 Reclamation, including installment payments after such date on account of arrangements for
1010 Federal financial assistance which were approved before such date. The Contractor recognizes
1011 and agrees that such Federal assistance will be extended in reliance on the representations and
1012 agreements made in this Article, and that the United States reserves the right to seek judicial
1013 enforcement thereof.

24. Omitted.

1014 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS
1015 RELATING TO PROJECT WORKS

1016 25. In addition to all other payments to be made by the Contractor pursuant to this
1017 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
1018 detailed statement submitted by the Contracting Officer to the Contractor for such specific items
1019 of direct cost incurred by the United States for work requested by the Contractor associated with
1020 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies
1021 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed
1022 to in writing in advance by the Contractor. This Article shall not apply to costs for routine
1023 contract administration.

1024 WATER CONSERVATION

1025 26. (a) Prior to the delivery of water provided from or conveyed through
1026 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
1027 shall be implementing an effective water conservation and efficiency program based on the
1028 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
1029 the conservation and efficiency criteria for evaluating water conservation plans established under
1030 Federal law. The water conservation and efficiency program shall contain definite water
1031 conservation objectives, appropriate economically feasible water conservation measures, and
1032 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
1033 Contract shall be contingent upon the Contractor's continued implementation of such water
1034 conservation program. In the event the Contractor's water conservation plan or any revised water
1035 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not
1036 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
1037 the Contracting Officer determines are beyond the control of the Contractor, water deliveries

1038 shall be made under this Contract so long as the Contractor diligently works with the Contracting
1039 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
1040 immediately begins implementing its water conservation and efficiency program in accordance
1041 with the time schedules therein.

1042 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1043 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall
1044 implement the Best Management Practices identified by the time frames issued by the California
1045 Urban Water Conservation Council for such M&I Water unless any such practice is determined
1046 by the Contracting Officer to be inappropriate for the Contractor.

1047 (c) The Contractor shall submit to the Contracting Officer a report on the
1048 status of its implementation of the water conservation plan on the reporting dates specified in the
1049 then existing conservation and efficiency criteria established under Federal law.

1050 (d) At five-year intervals, the Contractor shall revise its water conservation
1051 plan to reflect the then current conservation and efficiency criteria for evaluating water
1052 conservation plans established under Federal law and submit such revised water management
1053 plan to the Contracting Officer for review and evaluation. The Contracting Officer will then
1054 determine if the water conservation plan meets Reclamation's then-current conservation and
1055 efficiency criteria for evaluating water conservation plans established under Federal law.

1056 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1057 shall be described in the Contractor's water conservation plan.

1058 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1059 27. Except as specifically provided in Article 17 of this Contract, the provisions of
1060 this Contract shall not be applicable to or affect non-Project water or water rights now owned or

1061 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1062 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1063 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or
1064 any water user within the Contractor's Service Area acquires or has available under any other
1065 contract pursuant to Federal Reclamation law.

1066 28. Omitted.

1067 OPERATION AND MAINTENANCE OF PROJECT WORKS
1068 BY THE CONTRACTOR

1069 28.1. (a) The Contractor, without expense to the United States, shall operate and
1070 maintain the Project Works in full compliance with the Federal Reclamation laws and the terms
1071 of this Contract. The provisions of this Article shall be implemented by the Memorandum of
1072 Agreement relating to Details of Transfer Operations and Maintenance of Contra Costa Canal
1073 System, dated June 28, 1972, and Amendment 1, dated May 15, 1995, and may be amended from
1074 time to time in such manner that Project Works shall be maintained in good and efficient
1075 condition. The Contractor shall use proper methods to assure the reasonable and beneficial use
1076 of Water Delivered by means of Project Works. At any time the Contracting Officer determines
1077 the O&M by the Contractor of one or more of the Project Works is insufficient, the United States
1078 may take back the O&M of all or any part of such Project Works and the Contractor hereby
1079 agrees to surrender possession of said Project Works. The O&M of such Project Works so taken
1080 back for O&M may be retransferred to the Contractor upon the furnishing by the Contracting
1081 Officer of a written notice of intention to retransfer O&M to the Contractor 90 days in advance
1082 of the date of retransfer by the United States. Such transfer shall not be made until the Project
1083 Works have been placed in efficient operating condition: Provided, That for Project Works
1084 taken back by the United States for O&M, the Contractor shall pay the United States quarterly, in

1085 advance, sufficient funds, on the basis of an estimate to be submitted by the Contracting Officer,
1086 to finance the O&M of such Project Works. If the actual O&M costs should exceed the
1087 estimated costs, the Contractor shall pay the United States the necessary additional sums of
1088 money within 60 days after receipt of a bill submitted by the Contracting Officer to the
1089 Contractor. Any surplus of advances by the Contractor shall be refunded or, at the option of the
1090 Contracting Officer, be applied against any obligation of the Contractor under this Contract due
1091 at that time.

1092 (b) No substantial change in any of the Project Works or the installation of
1093 Contractor facilities on the lands and rights of way of Project Works shall be made by the
1094 Contractor without first obtaining the written consent of the Contracting Officer. The Contractor
1095 shall promptly make at its expense any and all repairs or replacements to one or more of the
1096 Project Works which the Contracting Officers determines are necessary for the proper O&M of
1097 such Project Works. If at any time, in the opinion of the Contracting Officer one or more of the
1098 Project Works shall from any cause be in a condition unfit for service, the Contracting Officer
1099 may order that the water be shut off from that Project Works until, in the Contracting Officer's
1100 opinion, said Project Works are put in proper condition for service. If the Contractor neglects or
1101 fails to make necessary repairs or replacements, at the option of the Contracting Officer, such
1102 repairs or replacements may be made by the United States and the cost therefore charged to the
1103 Contractor. The Contractor shall repay such costs as a miscellaneous cost in accordance with
1104 Article 25 of this Contract. The Contractor at its own expense shall repair any damage to the
1105 Project Works resulting from negligence of its officers, employees, or agents.

1106 (c) From time to time the Contracting Officer, without cost to the Contractor,
1107 may make a review of the maintenance of the Project Works in order to assist the Contractor in

1108 determining the condition of those facilities and the adequacy of the maintenance program. The
1109 review may include any or all of the Project Works. A report of each such review, including
1110 recommendations, if any, shall be prepared and a copy shall be furnished to the Contractor. If
1111 deemed necessary by the Contracting Officer or when requested by the Contractor, an inspection
1112 of any of the Project Works and of the Contractor's books and records relating thereto may be
1113 made to ascertain whether the requirements of this Contract are being satisfactorily performed by
1114 the Contractor or to assist the Contractor in solving specific problems. Any such inspection
1115 shall, except in a case of emergency, be made after written notice to the Contractor and the actual
1116 cost thereof shall be paid by the Contractor to the United States as a miscellaneous cost pursuant
1117 to Article 25 of this Contract. The Contractor may participate in either the review or inspection.

1118 (d) The Contractor shall have the right to abandon one or more of the Project
1119 Works with the prior written approval of the Contracting Officer: Provided, That abandonment
1120 of one or more of the Project Works shall not relieve the Contractor of its obligation to repay the
1121 capital cost plus interest as appropriate of such Project Works less any disposal or salvage value
1122 which may be realized.

1123 (e) If and when the Contractor fully repays the United States the costs of one
1124 or more of the Project Works and the ownership of such Project Works is transferred to the
1125 Contractor pursuant to an Act of Congress, the provisions of subdivision (a), (b), (c), and (d) of
1126 this Article and subdivision (c) of Article 17 shall no longer apply to such Project Works

1127 EMERGENCY RESERVE FUND

1128 28.2. (a) The Contractor shall accumulate and maintain a reserve fund, as set forth
1129 in subdivision (b) below, which the Contractor shall keep available to pay O&M costs incurred

1130 during periods of special stress caused by damaging droughts, storms, earthquakes, floods, or
1131 other emergencies threatening or causing interruption of water service.

1132 (b) The Contractor shall establish a reserve fund of not less than \$1,000,000 in
1133 a Federally insured interest- or dividend-bearing account, or investments in securities guaranteed
1134 by the Federal Government; Provided, That the money so deposited or invested shall be available
1135 within a reasonable time to meet expenses for the purposes identified in subdivision (d) of this
1136 Article. Whenever said reserve fund is reduced below \$1,000,000 by expenditures therefrom, it
1137 shall be restored to that amount by accumulation of annual deposits at a minimum of \$250,000.
1138 The interest earnings shall continue to accumulate and be retained as part of the reserve fund
1139 except when required to meet expenditures pursuant to subdivisions (a) and (d) of this Article.

1140 (c) By written agreement between the Contractor and the Contracting Officer,
1141 the basic amount of the reserve fund may be adjusted to account for risk and uncertainty
1142 stemming from the size and complexity of the Project Works, the size of the Contractor's annual
1143 O&M budget and O&M costs not contemplated when this Contract was executed.

1144 (d) The Contractor may withdraw money from the reserve fund only for
1145 meeting unusual O&M costs incurred during periods of stress as described in subdivision (a)
1146 above, and unforeseen extraordinary O&M costs, unusual or extraordinary repair or replacement
1147 costs, and betterment costs (in situations where recurrence of severe problems can be eliminated)
1148 during periods of special stress. The Contractor shall notify the Contracting Officer of any
1149 expenditure from the reserve fund pursuant to this subdivision.

1173 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1174 29. The expenditure or advance of any money or the performance of any obligation of
 1175 the United States under this Contract shall be contingent upon appropriation or allotment of
 1176 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
 1177 obligations under this Contract. No liability shall accrue to the United States in case funds are
 1178 not appropriated or allotted.

1179 BOOKS, RECORDS, AND REPORTS

1180 30. (a) The Contractor shall establish and maintain accounts and other books and
 1181 records pertaining to administration of the terms and conditions of this Contract, including: the
 1182 Contractor's financial transactions, water supply data, and Project land and right-of-way
 1183 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
 1184 data; and other matters that the Contracting Officer may require. Reports thereon shall be
 1185 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
 1186 Officer may require. Subject to applicable Federal laws and regulations, each party to this
 1187 Contract shall have the right during office hours to examine and make copies of the other party's
 1188 books and records relating to matters covered by this Contract.

1189 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
 1190 books, records, or other information shall be requested from the Contractor by the Contracting
 1191 Officer unless such books, records, or information are reasonably related to the administration or
 1192 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
 1193 time within which to provide the requested books, records, or information.

1194 (c) Omitted.

1195 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1196 31. (a) The provisions of this Contract shall apply to and bind the successors and
 1197 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
 1198 therein shall be valid until approved in writing by the Contracting Officer.

1199 (b) The assignment of any right or interest in this Contract by either party
 1200 shall not interfere with the rights or obligations of the other party to this Contract absent the
 1201 written concurrence of said other party.

1202 (c) The Contracting Officer shall not unreasonably condition or withhold
1203 approval of any proposed assignment.

1204 SEVERABILITY

1205 32. In the event that a person or entity who is neither (i) a party to a Project contract,
1206 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
1207 an association or other form of organization whose primary function is to represent parties to
1208 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1209 enforceability of a provision included in this Contract and said person, entity, association, or
1210 organization obtains a final court decision holding that such provision is legally invalid or
1211 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1212 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
1213 final court decision identify by mutual agreement the provisions in this Contract which must be
1214 revised and (ii) within three months thereafter promptly agree on the appropriate revision(s).
1215 The time periods specified above may be extended by mutual agreement of the parties. Pending
1216 the completion of the actions designated above, to the extent it can do so without violating any
1217 applicable provisions of law, the United States shall continue to make the quantities of Project
1218 Water specified in this Contract available to the Contractor pursuant to the provisions of this
1219 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1220 RESOLUTION OF DISPUTES

1221 33. Should any dispute arise concerning any provisions of this Contract, or the
1222 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1223 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1224 Officer referring any matter to the Department of Justice, the party shall provide to the other

1225 party 30-days written notice of the intent to take such action; Provided, That such notice shall not
1226 be required where a delay in commencing an action would prejudice the interests of the party
1227 that intends to file suit. During the 30-day notice period, the Contractor and the Contracting
1228 Officer shall meet and confer in an attempt to resolve the dispute. Except as specifically
1229 provided, nothing herein is intended to waive or abridge any right or remedy that the Contractor
1230 or the United States may have.

OFFICIALS NOT TO BENEFIT

1231 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1232 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1233 manner as other water users or landowners.

CHANGES IN CONTRACTOR'S SERVICE AREA

1235 35. (a) While this Contract is in effect, no change may be made in the
1236 Contractor's Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger,
1237 or otherwise, except upon the Contracting Officer's written consent.

1238 (b) Within 30 days of receipt of a request for such a change, the Contracting
1239 Officer will notify the Contractor of any additional information required by the Contracting
1240 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1241 schedule for timely completion of the process. Such process will analyze whether the proposed
1242 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1243 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1244 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1245 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1246 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be
1247 responsible for all costs incurred by the Contracting Officer in this process, and such costs will
1248 be paid in accordance with Article 25 of this Contract.

1249 FEDERAL LAWS

1250 36. By entering into this Contract, the Contractor does not waive its rights to contest
1251 the validity or application in connection with the performance of the terms and conditions of this
1252 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1253 the terms and conditions of this Contract unless and until relief from application of such Federal
1254 law or regulation to the implementing provision of the Contract is granted by a court of
1255 competent jurisdiction.

1256 NOTICES

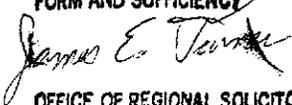
1257 37. Any notice, demand, or request authorized or required by this Contract shall be
1258 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1259 delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno,
1260 California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered
1261 to the Board of Directors, Contra Costa Water District, P. O. Box H₂O, Concord, California
1262 94524. The designation of the addressee or the address may be changed by notice given in the
1263 same manner as provided in this Article for other notices.

1264 CONFIRMATION OF CONTRACT

1265 38. The Contractor, after the execution of this Contract, shall furnish to the
1266 Contracting Officer evidence that pursuant to the laws of the State of California, the Contractor
1267 is a legally constituted entity, and the Contract is lawful, valid, and binding on the Contractor.

1268 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day
1269 and year first above written.

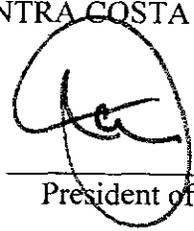
1270 THE UNITED STATES OF AMERICA

1271 APPROVED AS TO LEGAL
1272 FORM AND SUFFICIENCY
1273 
OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

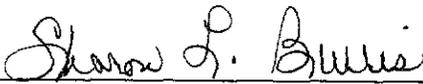
By: 
Regional Director, Mid-Pacific Region
Bureau of Reclamation

1274 (SEAL)

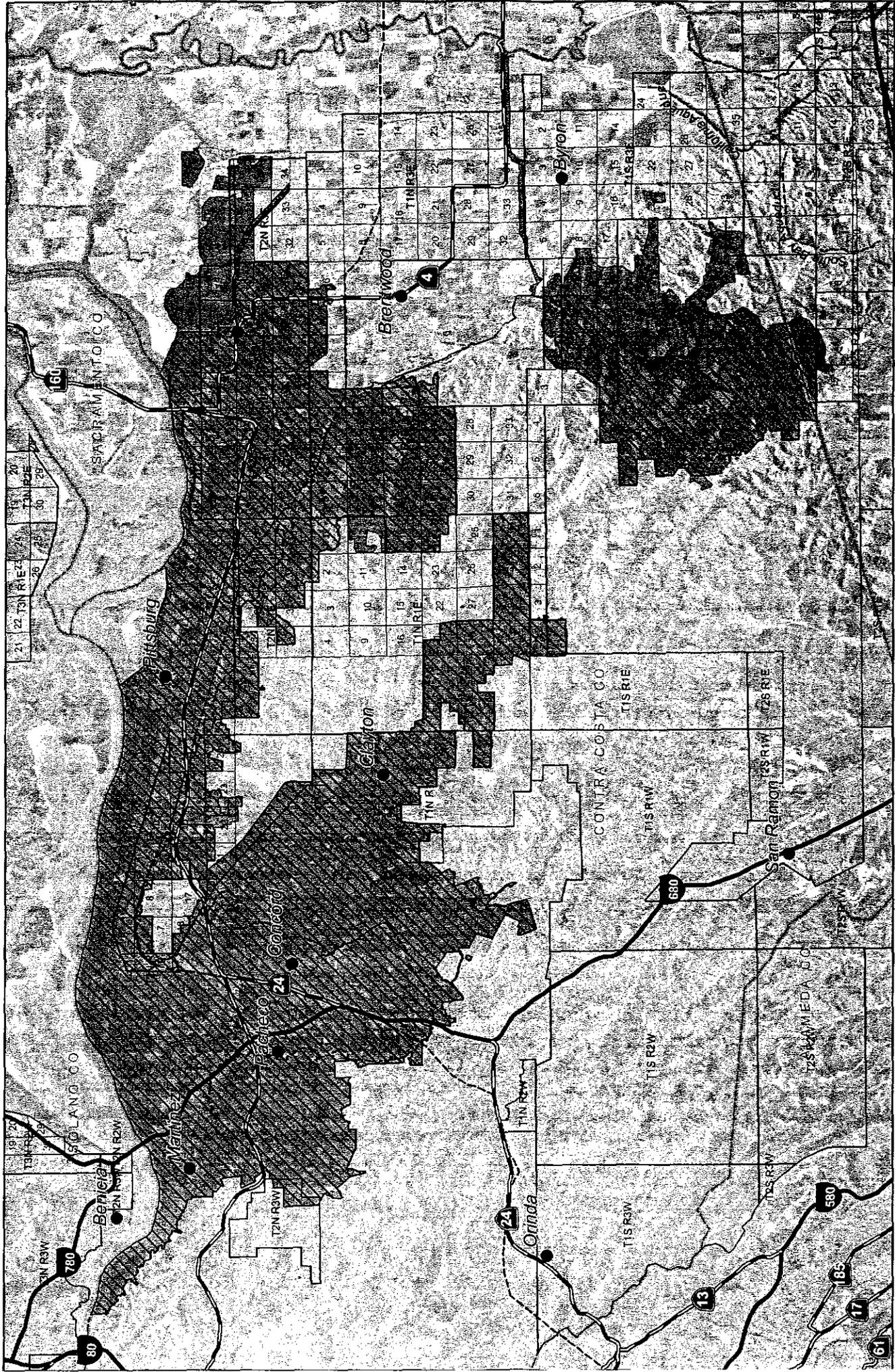
1275 CONTRA COSTA WATER DISTRICT

1276 By: 
1277 President of the Board of Directors

1278 Attest:

1279 By: 
1280 Secretary of the Board of Directors

1281 (H:\pub 440\LTRC\Final Draft LTRC's - Fresno, Tracy\11-30-04 Contra Costa WD Final Draft
1282 LTRC with exhibits.doc)



Contra Costa Water District

Contract No. 175r-3401A-LTR1
Exhibit A

District Boundary
 Contractor's Service Area



EXHIBIT B
CONTRA COSTA WATER DISTRICT
2005 Water Rates and Charges

<u>COST-OF-SERVICE RATES(COS):</u>	<u>Central Valley Project</u> <u>M&I</u>	<u>*Non-Project Water</u>	
		<u>Los Vaqueros</u> <u>M&I Water</u>	<u>Other</u> <u>M&I Water</u>
Capital Rates	\$ 3.82	\$.63	
O&M Rates:			
Water Marketing	\$ 3.89	\$ 3.89	\$ 3.89
Storage	\$ 6.67		
Direct Pumping	\$ 4.74	\$ 4.74	
 TOTAL O&M RATES	 \$15.30	 \$ 9.26	 \$ 3.89
Deficit Rates:			
Non-Interest Bearing			
Interest Bearing	\$ 3.90		
Total Deficit Rate.	\$ 3.90		
 TOTAL COST OF SERVICE RATES(COS)	 <u>\$ 23.02</u>	 <u>\$ 9.89</u>	 <u>\$3.89</u>
 Tiered Pricing Component >80% <=90% of Contract Total [Full cost Rate – COS Rate/2]	 \$ 1.14		
 Tiered Pricing Component >80% <=90% Of Contract Total [Full Cost Rate – COS Rate]	 \$ 2.28		

CHARGES UNDER P.L. 102-575 TO RESTORATION FUND: **

Restoration Payments [Section 3407(d)(2)(A)]	\$15.87
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* Non-Project Rates/Charges may be modified by various methods on a CVP-Wide Basis at some future point.

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

HISTORIC USE as defined in CVP M&I Water Shortage Policy:

Adjusted Historical Use (as of January 2004) – 170,000 acre-feet

BOLD, POLISNER, MADDOW, NELSON & JUDSON

A PROFESSIONAL CORPORATION

ROBERT B. MADDOW
CARL P. A. NELSON
CRAIG L. JUDSON

500 YGNACIO VALLEY ROAD, SUITE 325
WALNUT CREEK, CALIFORNIA 94596-3840

FREDERICK BOLD, JR.
(913-2003)

TELEPHONE (925) 933-7777

TELEFAX (925) 933-7804

E-MAIL bpmnj@prodigy.net

May 3, 2005

Kirk C. Rodgers, Regional Director
Mid Pacific Regional Office
Federal Office Building
2800 Cottage Way
Sacramento CA 95825-1898

Re: Long-Term Renewal Contract Between the United States and Contra
Costa Water District Providing for Water Service and Facilities
Repayment (Contract No. I75r-3401A-LTR)—Confirmation of
Contract (Ref.: Article 38)

Dear Mr. Rodgers:

I have served as counsel to the Contra Costa Water District (CCWD or the Contractor) in connection with the Long-Term Renewal Contract Between the United States and Contra Costa Water District Providing for Water Service and Facilities Repayment, Contract No. I75r-3401A-LTR (the Contract). This law firm or its immediate predecessor has served as counsel to CCWD since 1970, and has been continuously involved in providing advice to CCWD concerning its contract with the United States and its relationship with the Bureau of Reclamation and other federal agencies.

The purpose of this letter is to comply with Article 38 of the Contract by providing "evidence that pursuant to the laws of the State of California, the Contractor is a legally constituted entity and the contract is lawful, valid, and binding on the Contractor."

In connection with the delivery of this letter, I have examined the Contract and Resolution No. 05-11 adopted by the CCWD Board of Directors on March 16, 2005 (certified copy attached) which approved the Contract as to form and content and authorized the execution of the Contract by the President of the Board, and such other documents and information as I have deemed necessary or appropriate for purposes of the opinions set forth herein.

On the basis of the foregoing I am of the opinion that:

1. The Contractor is a legally constituted County Water District, duly established and existing pursuant to the laws of the State of California, particularly the County Water District Law (Division 12 of the California Water Code, commencing with Section 30000).

BOLD, POLISNER, MADDOW, NELSON & JUDSON

Contra Costa Water District
Confirmation of Contract
May 3, 2005
Page 2

2. Resolution No. 05-11 has been duly authorized, adopted and executed by the Contractor, and assuming due authorization, execution and delivery by the United States, the Contract constitutes a legal, valid and binding agreement of the Contractor, enforceable in accordance with its terms and with the provisions of applicable law.

3. There is no action, suit, claim, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, governmental or public board or body, pending or to my knowledge threatened against, or, in any way affecting the Contractor, or any of its property, or the titles of its officers to their respective offices, or seeking to restrain or to enjoin the execution by the Contractor of the Contract, or in any way contesting or affecting the validity or enforceability of Resolution No. 05-11 or the Contract, or any action of the Contractor contemplated by the Contract or Resolution No. 05-11, or the contractor's authority with respect to Resolution No. 05-11, the Contract or any action on the part of the Contractor contemplated by the Contract or Resolution No. 05-11.

4. The execution and delivery by the Contractor of the Contract and the adoption of Resolution No. 05-11 and compliance with the respective provisions thereof do not and will not conflict with, violate, constitute or result in a breach of or default under any agreement or other instrument to which the Contractor is a party, or any court order or consent decree to which the Contractor is subject.

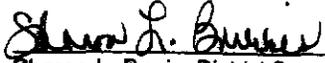
5. All authorizations, consents and approvals of governmental bodies or regulatory authorities required for the Contractor's execution or performance of the Contract have been obtained or effected. The Contractor has complied with all applicable laws required to be complied with to consummate the transactions contemplated by the Contract and no further action on the part of the Contractor is required to be taken to effect the implementation of the Contract.

This opinion is being rendered to you solely for your benefit and may not be relied on by anyone else (other than your successors and assigns) without my prior written consent.

Respectfully submitted,
BOLD, POLISNER, MADDOW, NELSON & JUDSON

By Robert B. Maddow
Robert B. Maddow

RBM:lq
cc: Walter J. Bishop (CCWD)
Attachment


Sharon L. Burris, District Secretary
Contra Costa Water District

RESOLUTION NO. 05-11

A RESOLUTION OF THE BOARD OF DIRECTORS OF CONTRA COSTA WATER DISTRICT APPROVING THE FORM AND CONTENT OF AND AUTHORIZING EXECUTION OF THE LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES AND CONTRA COSTA WATER DISTRICT FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT

WHEREAS, the Contra Costa Water District (the "District") entered into an Amended Contract No. I75r-3401, with the United States, providing for water service from the United States' Central Valley Project and for construction of facilities, on November 9, 1970, which Contract was subsequently amended on April 26, 1973, May 26, 1994, and February 7, 2000; and

WHEREAS, Section 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), Title XXXIV of Public Law 102-575, enacted on October 30, 1992, requires renewal of all Central Valley Project contracts upon completion of the CVPIA Programmatic Environmental Impact Statement (PEIS); and

WHEREAS, the contract amendment of May 26, 1994 complied with the requirements of the CVPIA, so that this contract renewal does not significantly change the terms and conditions of the contract; and

WHEREAS, the District on September 30, 1997 entered into Amended Contract No. I75r-3401-BA with the Secretary of Interior, a binding agreement that commits the District to enter into negotiations to renew its CVP contract immediately upon completion of the CVPIA PEIS, and provides for the scope and timing of renewal negotiations; and

WHEREAS, all negotiations were conducted in public and were concluded in November 2004, and thereafter the draft contract was made available for a sixty-day public review and comment period; and

WHEREAS, the Bureau of Reclamation prepared an Environmental Assessment and released a Finding of No Significant Impact for renewal of the contract in accordance with

National Environmental Policy Act, which were available for a thirty-day public review and comment period; and

WHEREAS, the Bureau of Reclamation has obtained non-jeopardy Biological Opinions from the United States Fish and Wildlife Service and the National Marine Fisheries Service for renewal of the contract in compliance with the Endangered Species Act; and

WHEREAS, the District certified a Programmatic Environmental Impact Report (PEIR) for the Future Water Supply Implementation (FWSI) program in February 1999 which identified the long term renewal of the CVP contract as an important element of the District future water supply and analyzed the environmental impacts of contract renewal, and subsequently adopted Findings, a Statement of Overriding Considerations, and a Mitigation Monitoring and Reporting Plan; and

WHEREAS, the new contract does not add or increase the severity of environmental impacts identified in the PEIR and an Addendum to the FWSI PEIR has been completed in compliance with the California Environmental Quality Act, and the Board of Directors has independently reviewed and analyzed the PEIR and Addendum thereto; and

WHEREAS, it is in the best interest of the District that its existing water service contract with the United States of America be renewed, thereby providing continued water service to all lands within the District, providing water supply and project power, and providing a method for facilities repayment to the United States, all in accordance with existing law; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Contra Costa Water District that:

1. The Addendum and the form and content of the contract entitled "Long-Term Renewal Contract Between the United States and Contra Costa Water District Providing for Water Service and Facilities Repayment," a copy of which is on file with the Secretary of the District, are

acceptable to the Contra Costa Water District, and the Board of Directors hereby determines that the Addendum is adopted and the contract is approved and may be executed by the District.

2. The President of the Board of Directors is hereby authorized to execute the contract on behalf of the District.

3. The General Manager or his designee is hereby authorized to take such further steps as the General Manager shall determine to be necessary to implement the contract.

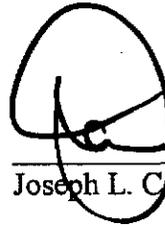
The foregoing resolution was duly and regularly adopted at a meeting held on the 16th of March 2005 by the Board of Directors of Contra Costa Water District by the following vote:

AYES: Boatmun, Wandry, Anello, Burgh and Campbell

NOES: None

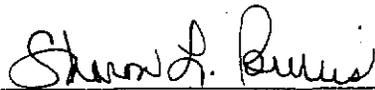
ABSTAIN: None

ABSENT: None



Joseph L. Campbell, President

ATTEST:



Sharon L. Burris
District Secretary