

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
EAGLE FIELD WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM THE DELTA DIVISION

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Exhibit A - Map of Contractor's Service Area

Exhibit B - Rates and Charges

1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
6 AND
7 EAGLE FIELD WATER DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM THE DELTA DIVISION

10 THIS CONTRACT, made this 25th day of February, 2005, in pursuance
11 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,
12 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
13 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
14 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat.
15 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all
16 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES
17 OF AMERICA, hereinafter referred to as the United States, and the EAGLE FIELD WATER
18 DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly
19 organized, existing, and acting pursuant to the laws thereof;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
23 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for

24 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
25 restoration, generation and distribution of electric energy, salinity control, navigation and other
26 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the
27 San Joaquin River and their tributaries; and

28 [2nd] WHEREAS, the United States constructed the Delta-Mendota Canal and related
29 facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the
30 terms of this Contract; and

31 [3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant
32 to California law for operation of the Project; and

33 [4th] WHEREAS, the Contractor and the United States entered into Contract
34 No. 14-06-200-7754, as amended, which established terms for the delivery to the Contractor of
35 Project Water from the Delta Division Facilities from April 10, 1959, through February 28, 1995;
36 and

37 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection
38 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
39 interim renewal contract(s) identified as Contract No(s). 14-06-200-7754-IR1, 14-06-200-7754-IR2,
40 14-06-200-7754-IR3, 14-06-200-7754-IR4, 14-06-200-7754-IR5, 14-06-200-7754-IR6, 14-06-200-
41 7754-IR7, and 14-06-200-7754-IR8, the current of which is hereinafter referred to as the Existing
42 Contract, which provided for the continued water service to the Contractor from March 1, 1995,
43 through February 28, 2006; and

44 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
45 Existing Contract following completion of appropriate environmental documentation, including a
46 programmatic environmental impact statement (PEIS) pursuant to the National Environmental

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

49 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
50 environmental review necessary to provide for long-term renewal of the Existing Contract; and

51 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
52 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of
53 the State of California, for water service from the Project; and

54 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
55 its obligations under the Existing Contract; and

56 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
57 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
58 beneficial use and/or has demonstrated projected future demand for water use such that the
59 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the
60 quantity of Project Water to be made available to it pursuant to this Contract; and

61 [11th] WHEREAS, water obtained from the Project has been relied upon by urban and
62 agricultural areas within California for more than 54 years, and is considered by the Contractor as
63 an essential portion of its water supply; and

64 [12th] WHEREAS, the economies of regions within the Project, including the Contractor's,
65 depend upon the continued availability of water, including water service from the Project; and

66 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and
67 partnerships to pursue measures to improve water supply, water quality, and reliability of the
68 Project for all Project purposes; and

69 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
70 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment
71 of the Project as required by law; to guard reasonably against Project Water shortages; to achieve a
72 reasonable balance among competing demands for use of Project Water; and to comply with all
73 applicable environmental statutes, all consistent with the legal obligations of the United States
74 relative to the Project; and

75 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
76 relationship in order to achieve their mutual goals; and

77 [15.1] WHEREAS, the Contractor has utilized or may utilize transfers, contract
78 assignments, rescheduling, and conveyance of Project Water and non-Project water under this
79 Contract as tools to minimize the impacts of Conditions of Shortage and to maximize the beneficial
80 use of water; and

81 [15.2] WHEREAS, the parties desire and intend that this Contract not provide a
82 disincentive to the Contractor in continuing to carry out the beneficial activities set out in the
83 Explanatory Recital immediately above; and

84 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
85 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

88 DEFINITIONS

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

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

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

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

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

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

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

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

110 (g.1) "Delta Division Facilities" shall mean those existing and future Project
111 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to, the
112 Tracy Pumping Plant, the O'Neil Forebay, the O'Neill Pumping/Generating Plant, and the San Luis

113 Reservoir, used to divert, store, and convey water to those Project Contractors entitled to receive
114 water conveyed through the Delta-Mendota Canal;

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

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

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

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

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

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

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

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

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

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

152 (r) "Operating Non-Federal Entity" shall mean the entity(ies), its (their)
153 successors or assigns, which has (have) the obligation to operate and maintain all or a portion of the
154 Delta Division Facilities pursuant to written agreement(s) with the United States. When this
155 Contract was entered into, the Operating Non-Federal Entity was the San Luis & Delta-Mendota
156 Water Authority.

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

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

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

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

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

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

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

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

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

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

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

185 TERM OF CONTRACT

186 2. (a) This Contract shall be effective March 1, 2005, through February 28, 2030,
187 and supersedes the Existing Contract. In the event the Contractor wishes to renew this Contract
188 beyond February 28, 2030, the Contractor shall submit a request for renewal in writing to the
189 Contracting Officer no later than two years prior to the date this Contract expires. The renewal of
190 this Contract insofar as it pertains to the furnishing of Irrigation Water to the Contractor shall be
191 governed by subdivision (b) of this Article, and the renewal of this Contract insofar as it pertains to
192 the furnishing of M&I Water to the Contractor shall be governed by subdivision (c) of this Article.

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

198 (2) The conditions which must be met for this Contract to be renewed are:
199 (i) the Contractor has prepared a water conservation plan that has been determined by the
200 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and
201 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is
202 implementing an effective water conservation and efficiency program based on the Contractor's

203 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is operating
204 and maintaining all water measuring devices and implementing all water measurement methods as
205 approved by the Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has
206 reasonably and beneficially used the Project Water supplies made available to it and, based on
207 projected demands, is reasonably anticipated and expects to fully utilize for reasonable and
208 beneficial use the quantity of Project Water to be made available to it pursuant to such renewal; (v)
209 the Contractor is complying with all terms and conditions of this Contract; and (vi) the Contractor
210 has the physical and legal ability to deliver Project Water.

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

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

226 any revised policy applicable to the delivery of M&I Water that would limit the term of any
227 subsequent renewal contract with the Contractor for the furnishing of M&I Water to less than 40
228 years.

229 (d) The Contracting Officer shall make a determination ten years after the date of
230 execution of this Contract, and every five years thereafter during the term of this Contract, of
231 whether a conversion of the relevant portion of this Contract to a contract under subsection 9(d) of
232 the Reclamation Project Act of 1939 can be accomplished pursuant to the Act of July 2, 1956 (70
233 Stat 483). The Contracting Officer shall also make a determination ten years after the date of
234 execution of this Contract and every five years thereafter during the term of this Contract of whether
235 a conversion of the relevant portion of this Contract to a contract under subsection 9(c)(1) of the
236 Reclamation Project Act of 1939 can be accomplished. Notwithstanding any provision of this
237 Contract, the Contractor reserves and shall have all rights and benefits under the Act of July 2, 1956
238 (70 Stat. 483). The Contracting Officer anticipates that during the term of this Contract, all
239 authorized Project construction expected to occur will have occurred, and on that basis the
240 Contracting Officer agrees upon such completion to allocate all costs that are properly assignable to
241 the Contractor, and agrees further that, at any time after such allocation is made, and subject to
242 satisfaction of the condition set out in this subdivision, this Contract shall, at the request of the
243 Contractor, be converted to a contract under subsection 9(d) or 9(c)(1), whichever is applicable of
244 the Reclamation Project Act of 1939, subject to applicable Federal law and under stated terms and
245 conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such
246 conversion to occur shall be a determination by the Contracting Officer that, account being taken of
247 the amount credited to return by the Contractor as provided for under Federal Reclamation law, the
248 remaining amount of construction costs assignable for ultimate return by the Contractor can

249 probably be repaid to the United States within the term of a contract under subsection 9(d) or
250 9(c)(1), whichever is applicable. If the remaining amount of costs that are properly assignable to
251 the Contractor cannot be determined during the term of this Contract, the Contracting Officer shall
252 notify the Contractor, and provide the reason(s) why such a determination could not be made.
253 Further, the Contracting Officer shall make such a determination as soon thereafter as possible so as
254 to permit, upon request of the Contractor and satisfaction of the conditions set out above,
255 conversion to a contract under subsection 9(d) or 9(c)(1), whichever is applicable. In the event such
256 determination of costs has not been made at a time which allows conversion of this Contract during
257 the term of this Contract or the Contractor has not requested conversion of this Contract within such
258 term, the parties shall incorporate in any subsequent renewal contract as described in subdivision (b)
259 of this Article a provision that carries forth in substantially identical terms the provisions of this
260 subdivision.

261 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

262 3. (a) During each Year, consistent with all applicable State water rights, permits,
263 and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this
264 Contract, the Contracting Officer shall make available for delivery to the Contractor 4,550 acre-feet
265 of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in accordance
266 with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7
267 of this Contract.

268 (b) Because the capacity of the Project to deliver Project Water has been
269 constrained in recent years and may be constrained in the future due to many factors including
270 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
271 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this Article in

272 any given Year is uncertain. The Contracting Officer's modeling referenced in the PEIS projected
273 that the Contract Total set forth in this Contract will not be available to the Contractor in many
274 years. During the most recent five years, the Recent Historic Average of Water Made Available to
275 the Contractor was 2,994 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights
276 and obligations of the parties under any provision of this Contract.

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

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

288 (d) The Contractor shall make reasonable and beneficial use of all water
289 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu),
290 groundwater banking programs, surface water storage programs, and other similar programs
291 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
292 Contractor's Service Area which are consistent with applicable State law and result in use consistent
293 with Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is
294 (are) described in the Contractor's water conservation plan submitted pursuant to Article 26 of this

295 Contract; Provided, further, That such water conservation plan demonstrates sufficient lawful uses
296 exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered
297 Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation
298 law. Groundwater recharge programs, groundwater banking programs, surface water storage
299 programs, and other similar programs utilizing Project Water or other water furnished pursuant to
300 this Contract conducted outside the Contractor's Service Area may be permitted upon written
301 approval of the Contracting Officer, which approval will be based upon environmental
302 documentation, Project Water rights, and Project operational concerns. The Contracting Officer
303 will address such concerns in regulations, policies, or guidelines.

304 (e) The Contractor shall comply with requirements applicable to the Contractor
305 in biological opinion(s) prepared as a result of a consultation regarding the execution of this
306 Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as
307 amended, that are within the Contractor's legal authority to implement. The Existing Contract,
308 which evidences in excess of 45 years of diversions for irrigation and/or M&I purposes of the
309 quantities of water provided in subdivision (a) of this Article, will be considered in developing an
310 appropriate baseline for biological assessment(s) prepared pursuant to the ESA, and any other
311 needed environmental review. Nothing herein shall be construed to prevent the Contractor from
312 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
313 biological opinion or other environmental documentation referred to in this Article.

314 (f) Following the declaration of Water Made Available under Article 4 of this
315 Contract, the Contracting Officer will make a determination whether Project Water, or other water
316 available to the Project, can be made available to the Contractor in addition to the Contract Total
317 under this Article during the Year without adversely impacting other Project Contractors. At the

318 request of the Contractor, the Contracting Officer will consult with the Contractor prior to making
319 such a determination. If the Contracting Officer determines that Project Water, or other water
320 available to the Project, can be made available to the Contractor, the Contracting Officer will
321 announce the availability of such water and shall so notify the Contractor as soon as practical. The
322 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable
323 of taking such water to determine the most equitable and efficient allocation of such water. If the
324 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make
325 such water available to the Contractor in accordance with applicable statutes, regulations,
326 guidelines, and policies. Subject to existing long-term contractual commitments, water rights and
327 operational constraints, long-term Project Contractors shall have a first right to acquire such water,
328 including Project Water made available pursuant to Section 215 of the RRA.

329 (g) The Contractor may request permission to reschedule for use during the
330 subsequent Year some or all of the Water Made Available to the Contractor during the current Year,
331 referred to as "rescheduled water." The Contractor may request permission to use during the
332 current Year a quantity of Project Water which may be made available by the United States to the
333 Contractor during the subsequent Year referred to as "preuse." The Contracting Officer's written
334 approval may permit such uses in accordance with applicable statutes, regulations, guidelines, and
335 policies.

336 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
337 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during
338 the term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract,
339 during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its
340 obligations under this Contract and any renewals thereof. Nothing in the preceding sentence shall

341 affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of
342 Article 12 of this Contract or applicable provisions of any subsequent renewal contracts.

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

347 (j) The Contracting Officer shall make reasonable efforts to protect the water
348 rights necessary for the Project and to provide the water available under this Contract. The
349 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
350 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,
351 That the Contracting Officer retains the right to object to the substance of the Contractor's position
352 in such a proceeding; Provided further, That in such proceedings the Contracting Officer shall
353 recognize the Contractor has a legal right under the terms of this Contract to use Project Water.

354 TIME FOR DELIVERY OF WATER

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

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

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

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

378 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

379 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
380 Contract shall be delivered to the Contractor at a point or points on the Delta-Mendota Canal and
381 any additional point or points of delivery either on Project facilities or another location or locations
382 mutually agreed to in writing by the Contracting Officer and the Contractor.

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

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

391 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
392 measured and recorded with equipment furnished, installed, operated, and maintained by the
393 Contracting Officer either directly or indirectly through its written agreement(s) with the Operating
394 Non-Federal Entity(ies), unless undertaken by the Contractor with the consent of the Contracting
395 Officer, at the point or points of delivery established pursuant to subdivision (a) of this Article.
396 Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause
397 to be investigated by the appropriate Operating Non-Federal Entity(ies), the accuracy of such
398 measurements and shall take any necessary steps to adjust any errors appearing therein. For any
399 period of time when accurate measurements have not been made, the Contracting Officer shall
400 consult with the Contractor and the appropriate Operating Non-Federal Entity(ies), if any, prior to
401 making a final determination of the quantity delivered for that period of time.

402 (e) Absent a separate contrary written agreement with the Contractor, neither the
403 Contracting Officer nor any Operating Non-Federal Entity (ies) shall be responsible for the control,
404 carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to
405 this Contract beyond the point or points of delivery established pursuant to subdivision (a) of this
406 Article. The Contractor shall indemnify the United States, its officers, employees, agents, and
407 assigns on account of damage or claim of damage of any nature whatsoever for which there is legal
408 responsibility, including property damage, personal injury, or death arising out of or connected with
409 the control, carriage, handling, use, disposal, or distribution of such Water Delivered beyond such

410 point or points of delivery, except for any damage or claim arising out of: (i) acts or omissions of
411 the Contracting Officer or any of its officers, employees, agents, and assigns, including the
412 Operating Non-Federal Entity(ies), with the intent of creating the situation resulting in any damage
413 or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees, agents,
414 and assigns, including the Operating Non-Federal Entity(ies); (iii) negligence of the Contracting
415 Officer or any of its officers, employees, agents, and assigns including the Operating Non-Federal
416 Entity(ies); or (iv) a malfunction of facilities owned and/or operated by the United States or the
417 Operating Non-Federal Entity(ies).

418 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

419 6. (a) The Contractor has established a measuring program satisfactory to the
420 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation
421 purposes within the Contractor's Service Area is measured at each agricultural turnout and such
422 water delivered for M&I purposes is measured at each M&I service connection. The water
423 measuring devices or water measuring methods of comparable effectiveness must be acceptable to
424 the Contracting Officer. The Contractor shall be responsible for installing, operating, and
425 maintaining and repairing all such measuring devices and implementing all such water measuring
426 methods at no cost to the United States. The Contractor shall use the information obtained from
427 such water measuring devices or water measuring methods to ensure its proper management of the
428 water, to bill water users for water delivered by the Contractor; and, if applicable, to record water
429 delivered for M&I purposes by customer class as defined in the Contractor's water conservation
430 plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude
431 the Contractor from establishing and collecting any charges, assessments, or other revenues

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

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

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

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

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

459 RATES AND METHOD OF PAYMENT FOR WATER

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

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

472 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
473 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
474 period October 1, of the current Calendar Year, through September 30, of the following Calendar
475 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months to

476 review and comment on such estimates. On or before September 15 of each Calendar Year, the
477 Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the
478 period October 1 of the current Calendar Year, through September 30, of the following Calendar
479 Year, and such notification shall revise Exhibit "B."

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

487 (c) At the time the Contractor submits the initial schedule for the delivery of
488 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
489 shall make an advance payment to the United States equal to the total amount payable pursuant to
490 the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
491 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end
492 of the first month and before the end of each calendar month thereafter, the Contractor shall make
493 an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for
494 the Water Scheduled to be delivered pursuant to this Contract during the second month immediately
495 following. Adjustments between advance payments for Water Scheduled and payments at Rates
496 due for Water Delivered shall be made before the end of the following month; Provided, That any
497 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases
498 the amount of Water Delivered pursuant to this Contract during any month shall be accompanied

499 with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not
500 delivered to the Contractor in advance of such payment. In any month in which the quantity of
501 Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled
502 and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor
503 unless and until an advance payment at the Rates then in effect for such additional Project Water is
504 made. Final adjustment between the advance payments for the Water Scheduled and payments for
505 the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon
506 as practicable but no later than April 30th of the following Year, or 60 days after the delivery of
507 Project Water rescheduled under subdivision (g) of Article 3 of this Contract if such water is not
508 delivered by the last day of February.

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

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

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

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

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

542 (i) The parties acknowledge and agree that the efficient administration of this
543 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
544 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component,

545 and/or for making and allocating payments, other than those set forth in this Article may be in the
546 mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements to
547 modify the mechanisms, policies, and procedures for any of those purposes while this Contract is in
548 effect without amending this Contract.

549 (j) (1) Beginning at such time as deliveries of Project Water in a Year
550 exceed 80 percent of the Contract Total, then before the end of the month following the month of
551 delivery the Contractor shall make an additional payment to the United States equal to the
552 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
553 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
554 Contract Total, shall equal one-half of the difference between the Rate established under
555 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate,
556 whichever is applicable. The Tiered Pricing Component for the amount of Water Delivered which
557 exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate established
558 under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost
559 Water Rate, whichever is applicable. For all Water Delivered pursuant to subdivision (a) of Article
560 3 of this Contract which is in excess of 80 percent of the Contract Total, this increment shall be
561 deemed to be divided between Irrigation Water and M&I Water in the same proportion as actual
562 deliveries of each bear to the cumulative total Water Delivered.

563 (2) Subject to the Contracting Officer's written approval, the Contractor
564 may request and receive an exemption from such Tiered Pricing Component for Project Water
565 delivered to produce a crop which the Contracting Officer determines will provide significant and
566 quantifiable habitat values for waterfowl in fields where the water is used and the crops are
567 produced; Provided, That the exemption from the Tiered Pricing Component for Irrigation Water

568 shall apply only if such habitat values can be assured consistent with the purposes of the CVPIA
569 through binding agreements executed with or approved by the Contracting Officer prior to use of
570 such water.

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

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

584 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
585 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates, in
586 accordance with the applicable Project ratesetting policy, adjusted upward or downward to reflect
587 the changed costs, if any, incurred by the Contracting Officer in the delivery of the transferred
588 Project Water to the transferee's point of delivery. If the Contractor is receiving lower Rates and
589 Charges because of inability to pay and is transferring Project Water to another entity whose Rates

590 and Charges are not adjusted due to inability to pay, the Rates and Charges for transferred Project
591 Water shall not be adjusted to reflect the Contractor's inability to pay.

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

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

609 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

613 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

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

636 prior to the expiration of the then existing five-year period. All subsequent environmental
637 documentation shall include an alternative to evaluate not less than the quantity of Project Water
638 historically transferred within the same geographical area.

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

649 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

659 refund such overpayment in response to the notice to the Contractor that it has finalized the
660 accounts for the Year in which the overpayment was made.

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

666 TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

681 will, if possible, deliver the quantity of Project Water which would have been delivered hereunder
682 in the absence of such discontinuance or reduction.

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

689 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

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

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

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

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

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

723 (4) The available supply shall be multiplied by the Contractor's
724 proportionate share and the result shall be the quantity of Project Water made available by the
725 United States to the Contractor for the relevant Year in accordance with the schedule developed by
726 the Contracting Officer under subdivision (c) (1) of this Article, but in no event shall such amount

727 exceed the Contract Total. In the event the Contracting Officer subsequently determines that the
728 Contracting Officer can increase or needs to decrease the available supply for delivery from Delta
729 Division Facilities to long-term water service and repayment Contractors during the relevant Year,
730 such additions or reductions to the available supply shall be apportioned consistent with
731 subparagraphs (1) through (4), inclusive.

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

742 UNAVOIDABLE GROUNDWATER PERCOLATION

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

747 RULES AND REGULATIONS

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

752

WATER AND AIR POLLUTION CONTROL

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

756

QUALITY OF WATER

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

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

771 (c) Omitted.

772

WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

773

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

777 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water
778 and non-Project water were constructed without funds made available pursuant to Federal
779 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the
780 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation
781 Water must be established through the certification requirements as specified in the Acreage
782 Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands
783 within the Contractor's Service Area can be established and the quantity of Irrigation Water to be
784 utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the
785 facilities utilized for commingling Irrigation Water and non-Project water are/were constructed with
786 funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to
787 the acreage limitation provisions of Federal Reclamation law, unless the Contractor pays to the
788 United States the incremental fee described in 43 CFR 426.15. In determining the incremental fee,
789 the Contracting Officer will calculate annually the cost to the Federal Government, including
790 interest of storing or delivering non-Project water, which for purposes of this Contract shall be
791 determined as follows: The quotient shall be the unpaid distribution system costs divided by the
792 total irrigable acreage within the Contractor's Service Area. The incremental fee per acre is the
793 mathematical result of such quotient times the interest rate determined using Section 202 (3) of the
794 Act of October 12, 1982 (96 Stat. 1263). Such incremental fee will be charged to each acre of
795 excess or full cost land within the Contractor's Service Area that receives non-Project water through
796 Federally financed or constructed facilities. The incremental fee calculation methodology will
797 continue during the term of this Contract absent the promulgation of a contrary Reclamation-wide
798 rule, regulation, or policy adopted after the Contractor has been afforded the opportunity to review

799 and comment on the proposed rule, regulation, or policy. If such rule, regulation, or policy is
800 adopted it shall supercede this provision.

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

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

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

817 (3) Neither the United States nor the Operating Non-Federal Entity(ies)
818 shall be responsible for control, care, or distribution of the non-Project water before it is introduced
819 into or after it is delivered from the Project facilities. The Contractor hereby releases and agrees to
820 defend and indemnify the United States and the Operating Non-Federal Entity(ies), and their
821 respective officers, agents, and employees, from any claim for damage to persons or property, direct

822 or indirect, resulting from the act(s) of the Contractor, its officers, employees, agents, or assigns, in
823 (i) extracting or diverting non-Project water from any source, or (ii) diverting such non-Project
824 water into Project facilities.

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

828 (5) After Project purposes are met, as determined by the Contracting
829 Officer, the United States and Project Contractors entitled to Project Water from Delta Division
830 Facilities shall share priority to utilize the remaining capacity of the facilities declared to be
831 available by the Contracting Officer for conveyance and transportation of non-Project water prior to
832 any such remaining capacity being made available to non-Project contractors. Other Project
833 Contractors shall have a second priority to any remaining capacity of facilities declared to be
834 available by the Contracting Officer for conveyance and transportation of non-Project water prior to
835 any such remaining capacity being made available to non-Project contractors.

836 OPINIONS AND DETERMINATIONS

837 18. (a) Where the terms of this Contract provide for actions to be based upon the
838 opinion or determination of either party to this Contract, said terms shall not be construed as
839 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
840 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
841 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
842 unreasonable opinion or determination. Each opinion or determination by either party shall be
843 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall

844 affect or alter the standard of judicial review applicable under Federal law to any opinion or
845 determination implementing a specific provision of Federal law embodied in statute or regulation.

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

851 COORDINATION AND COOPERATION

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

862 (b) Within 120 days following the effective date of this Contract, the Contractor,
863 other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested
864 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be
865 amended as necessary separate and apart from this Contract. The goal of this process shall be to

866 provide, to the extent practicable, the means of mutual communication and interaction regarding
867 significant decisions concerning Project operation and management on a real-time basis.

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

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

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

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

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

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

885 (d) Without limiting the contractual obligations of the Contracting Officer under
886 the other Articles of this Contract, nothing in this Article shall be construed to limit or constrain the
887 Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or

888 other interested stakeholders or to make decisions in a timely fashion as needed to protect health,
889 safety or the physical integrity of structures or facilities.

890 CHARGES FOR DELINQUENT PAYMENTS

891 20. (a) The Contractor shall be subject to interest, administrative and penalty charges
892 on delinquent installments or payments. When a payment is not received by the due date, the
893 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
894 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
895 charge to cover additional costs of billing and processing the delinquent payment. When a payment
896 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
897 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
898 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
899 payment.

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

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

908 EQUAL OPPORTUNITY

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

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

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

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

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

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

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

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

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

952 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

965 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

966 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
967 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
968 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws,
969 as well as with their respective implementing regulations and guidelines imposed by the U.S.
970 Department of the Interior and/or Bureau of Reclamation.

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

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

984 PRIVACY ACT COMPLIANCE

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

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

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

999 (d) The Contracting Officer shall designate a full-time employee of the Bureau of
 1000 Reclamation to be the System Manager who shall be responsible for making decisions on denials
 1001 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is
 1002 authorized to grant requests by individuals for access to their own records.

1003 (e) The Contractor shall forward promptly to the System Manager each proposed
 1004 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR
 1005 2.71; notify the requester accordingly of such referral; and provide the System Manager with
 1006 information and records necessary to prepare an appropriate response to the requester. These
 1007 requirements do not apply to individuals seeking access to their own certification and reporting
 1008 forms filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the
 1009 Privacy Act as a basis for the request.

1010 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1011 25. In addition to all other payments to be made by the Contractor pursuant to this
 1012 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
 1013 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of
 1014 direct cost incurred by the United States for work requested by the Contractor associated with this
 1015 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
 1016 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in
 1017 writing in advance by the Contractor. This Article shall not apply to costs for routine contract
 1018 administration.

1019 WATER CONSERVATION

1020 26. (a) Prior to the delivery of water provided from or conveyed through Federally
 1021 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
 1022 implementing an effective water conservation and efficiency program based on the Contractor's
 1023 water conservation plan that has been determined by the Contracting Officer to meet the
 1024 conservation and efficiency criteria for evaluating water conservation plans established under
 1025 Federal law. The water conservation and efficiency program shall contain definite water
 1026 conservation objectives, appropriate economically feasible water conservation measures, and time

1027 schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract
1028 shall be contingent upon the Contractor's continued implementation of such water conservation
1029 program. In the event the Contractor's water conservation plan or any revised water conservation
1030 plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been
1031 determined by the Contracting Officer to meet such criteria, due to circumstances which the
1032 Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be
1033 made under this Contract so long as the Contractor diligently works with the Contracting Officer to
1034 obtain such determination at the earliest practicable date, and thereafter the Contractor immediately
1035 begins implementing its water conservation and efficiency program in accordance with the time
1036 schedules therein.

1037 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1038 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement
1039 the Best Management Practices identified by the time frames issued by the California Urban Water
1040 Conservation Council for such M&I Water unless any such practice is determined by the
1041 Contracting Officer to be inappropriate for the Contractor.

1042 (c) The Contractor shall submit to the Contracting Officer a report on the status
1043 of its implementation of the water conservation plan on the reporting dates specified in the then
1044 existing conservation and efficiency criteria established under Federal law.

1045 (d) At five-year intervals, the Contractor shall revise its water conservation plan
1046 to reflect the then current conservation and efficiency criteria for evaluating water conservation
1047 plans established under Federal law and submit such revised water management plan to the
1048 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the

1049 water conservation plan meets Reclamation's then current conservation and efficiency criteria for
1050 evaluating water conservation plans established under Federal law.

1051 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1052 shall be described in the Contractor's water conservation plan.

1053 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1054 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
1055 Contract shall not be applicable to or affect non-Project water or water rights now owned or
1056 hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area.
1057 Any such water shall not be considered Project Water under this Contract. In addition, this Contract
1058 shall not be construed as limiting or curtailing any rights which the Contractor or any water user
1059 within the Contractor's Service Area acquires or has available under any other contract pursuant to
1060 Federal Reclamation law.

1061 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1062 28. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1063 and responsibility for funding a portion of the costs of such O&M, have been transferred to the San
1064 Luis & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement
1065 (8-07-20-X0354) between the United States and the Operating Non-Federal Entity San Luis &
1066 Delta-Mendota Water Authority. That separate agreement shall not interfere with or affect the
1067 rights or obligations of the Contractor or the United States hereunder.

1068 (b) The Contracting Officer has previously notified the Contractor in writing that
1069 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the
1070 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, and therefore, the
1071 Contractor shall pay directly to the Operating Non-Federal Entity San Luis & Delta-Mendota Water

1072 Authority, or to any successor approved by the Contracting Officer under the terms and conditions
1073 of the separate agreement between the United States and the Operating Non-Federal Entity San Luis
1074 & Delta-Mendota Water Authority described in subdivision (a) of this Article, all rates, charges, or
1075 assessments of any kind, including any assessment for reserve funds, which the Operating Non-
1076 Federal Entity San Luis & Delta-Mendota Water Authority or such successor determines, sets, or
1077 establishes for the O&M of the portion of the Project facilities operated and maintained by the
1078 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or such successor. Such
1079 direct payments to the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or
1080 such successor shall not relieve the Contractor of its obligation to pay directly to the United States
1081 the Contractor's share of the Project Rates, Charges, and Tiered Pricing Component except to the
1082 extent the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority collects
1083 payments on behalf of the United States in accordance with the separate agreement identified in
1084 subdivision (a) of this Article.

1085 (c) For so long as the O&M of any portion of the Project facilities serving the
1086 Contractor is performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water
1087 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the
1088 Rates for Water Delivered under this Contract representing the cost associated with the activity
1089 being performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority
1090 or its successor.

1091 (d) In the event the O&M of the Project facilities operated and maintained by the
1092 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by the
1093 United States during the term of this Contract, the Contracting Officer shall so notify the
1094 Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall include the

1095 portion of the Rates to be paid by the Contractor for Project Water under this Contract representing
1096 the O&M costs of the portion of such Project facilities which have been re-assumed. The
1097 Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to
1098 the contrary, pay the Rates, Charges, and Tiered Pricing Component specified in the revised Exhibit
1099 "B" directly to the United States in compliance with Article 7 of this Contract.

1100 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1101 29. The expenditure or advance of any money or the performance of any obligation of
1102 the United States under this Contract shall be contingent upon appropriation or allotment of funds.
1103 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1104 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1105 or allotted.

1106 BOOKS, RECORDS, AND REPORTS

1107 30. (a) The Contractor shall establish and maintain accounts and other books and
1108 records pertaining to administration of the terms and conditions of this Contract, including: the
1109 Contractor's financial transactions, water supply data, and Project land and right-of-way
1110 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1111 data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished
1112 to the Contracting Officer in such form and on such date or dates as the Contracting Officer may
1113 require. Subject to applicable Federal laws and regulations, each party to this Contract shall have
1114 the right during office hours to examine and make copies of the other party's books and records
1115 relating to matters covered by this Contract.

1116 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,
1117 records, or other information shall be requested from the Contractor by the Contracting Officer
1118 unless such books, records, or information are reasonably related to the administration or
1119 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1120 time within which to provide the requested books, records, or information.

1121 (c) At such time as the Contractor provides information to the Contracting
1122 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided to
1123 the Operating Non-Federal Entity.

1124 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1125 31. (a) The provisions of this Contract shall apply to and bind the successors and
1126 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1127 therein shall be valid until approved in writing by the Contracting Officer.

1128 (b) The assignment of any right or interest in this Contract by either party shall
1129 not interfere with the rights or obligations of the other party to this Contract absent the written
1130 concurrence of said other party.

1131 (c) The Contracting Officer shall not unreasonably condition or withhold
1132 approval of any proposed assignment.

1133 SEVERABILITY

1134 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1135 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
1136 association or other form of organization whose primary function is to represent parties to Project
1137 contracts, brings an action in a court of competent jurisdiction challenging the legality or
1138 enforceability of a provision included in this Contract and said person, entity, association, or
1139 organization obtains a final court decision holding that such provision is legally invalid or
1140 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
1141 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court
1142 decision identify by mutual agreement the provisions in this Contract which must be revised and (ii)
1143 within three months thereafter promptly agree on the appropriate revision(s). The time periods
1144 specified above may be extended by mutual agreement of the parties. Pending the completion of
1145 the actions designated above, to the extent it can do so without violating any applicable provisions
1146 of law, the United States shall continue to make the quantities of Project Water specified in this

1147 Contract available to the Contractor pursuant to the provisions of this Contract which were not
1148 found to be legally invalid or unenforceable in the final court decision.

1149 RESOLUTION OF DISPUTES

1150 33. Should any dispute arise concerning any provisions of this Contract, or the parties'
1151 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
1152 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
1153 any matter to the Department of Justice, the party shall provide to the other party 30 days' written
1154 notice of the intent to take such action; Provided, That such notice shall not be required where a
1155 delay in commencing an action would prejudice the interests of the party that intends to file suit.
1156 During the 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in
1157 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
1158 waive or abridge any right or remedy that the Contractor or the United States may have.

1159 OFFICIALS NOT TO BENEFIT

1160 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1161 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1162 manner as other water users or landowners.

1163 CHANGES IN CONTRACTOR'S SERVICE AREA

1164 35. (a) While this Contract is in effect, no change may be made in the Contractor's
1165 Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
1166 except upon the Contracting Officer's written consent.

1167 (b) Within 30 days of receipt of a request for such a change, the Contracting
1168 Officer will notify the Contractor of any additional information required by the Contracting Officer
1169 for processing said request, and both parties will meet to establish a mutually agreeable schedule for
1170 timely completion of the process. Such process will analyze whether the proposed change is likely
1171 to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability

1172 of the Contractor to pay for Project Water furnished under this Contract or to pay for any
1173 Federally-constructed facilities for which the Contractor is responsible; and (iii) have an impact on
1174 any Project Water rights applications, permits, or licenses. In addition, the Contracting Officer shall
1175 comply with the NEPA and the ESA. The Contractor will be responsible for all costs incurred by
1176 the Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of
1177 this Contract.

1178 FEDERAL LAWS

1179 36. By entering into this Contract, the Contractor does not waive its rights to contest the
1180 validity or application in connection with the performance of the terms and conditions of this
1181 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
1182 terms and conditions of this Contract unless and until relief from application of such Federal law or
1183 regulation to the implementing provision of the Contract is granted by a court of competent
1184 jurisdiction.

1185 NOTICES

1186 37. Any notice, demand, or request authorized or required by this Contract shall be
1187 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1188 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California
1189 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board
1190 of Directors of the Eagle Field Water District, 51170 West Althea Avenue, Firebaugh, California
1191 93622. The designation of the addressee or the address may be changed by notice given in the same
1192 manner as provided in this Article for other notices.

1193 CONFIRMATION OF CONTRACT

1194 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a
1195 decree of a court of competent jurisdiction of the State of California, confirming the execution of
1196 this Contract. The Contractor shall furnish the United States a certified copy of the final decree, the
1197 validation proceedings, and all pertinent supporting records of the court approving and confirming
1198 this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

1199 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1200 year first above written.

1201

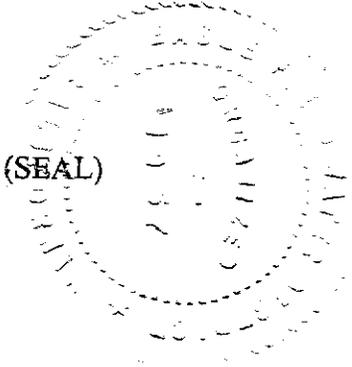
THE UNITED STATES OF AMERICA

1202
1203
1204

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY
James E. Tidwell
OFFICE OF REGIONAL DIRECTOR
DEPARTMENT OF THE INTERIOR

By: *[Signature]*
Regional Director, Mid-Pacific Region
Bureau of Reclamation

1205



1206

EAGLE FIELD WATER DISTRICT

1207
1208

By: *[Signature]*
President of the Board of Directors

1209 Attest:

1210 By: *[Signature]*
1211 Secretary of the Board of Directors

1212 (H:\pub 440\LTRC\Final Draft LTRC's -- Fresno, Tracy\09-14-04 Eagle Field WD Final Draft
1213 LTRC with exhibits.doc)



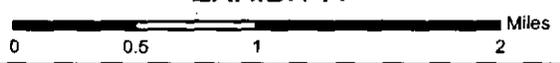
Note: The Public Land Survey depicted here was digitized from USGS topographic maps.

-  Contractor's Service Area
-  District Boundary

Eagle Field W.D.

Contract No. 14-06-200-7754-LTR1
EXHIBIT A

Date: October 4, 2004
File Name: N:\districts\contracts\eagle_field\eagle_field.mxd



214-208-12685

EXHIBIT B
EAGLE FIELD WATER DISTRICT
Water Rates and Charges

	<u>2005 Rates Per Acre-Foot</u>	
	<u>Irrigation Water</u>	<u>M&I Water¹</u>
COST-OF-SERVICE (COS) RATES:		
Capital Rates:	\$ 9.37	
O&M Rates:		
Water Marketing	\$ 6.61	
Storage	\$ 5.93	
Conveyance	*	
Conveyance Pumping	*	
Deficit Rates:		
Non-Interest Bearing		
Interest Bearing		
CFO/PFR Adjustment Rate ²	\$1.27	
<u>TOTAL COST-OF-SERVICE RATES (COS):</u>	\$23.18	\$0.00
<u>FULL-COST RATES:</u>		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$35.80	
<u>205 FULL-COST RATES:</u>		
Section 205(a)(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient that did <u>not</u> receive irrigation water on or before October 1, 1981.	\$42.90	
Tiered Pricing Component >80% <=90% of Contract		
Total [Full Cost Rate - COS Rate /2]:	\$ 6.31	
Tiered Pricing Component >90% of Contract		
Total [Full Cost Rate - COS Rate]:	\$12.62	
SURCHARGES UNDER P.L. 102-575		
TO RESTORATION FUND**	\$7.93	\$15.87

* Conveyance and Conveyance Pumping Operation and maintenance costs were removed for ratesetting purposes and are to be billed directly to the water authorities.

** 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).

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

² Rate represents Chief Financial Officers (CFO) Adjustment and Provision for Replacement (PFR) credit for option 2 cost deferral to be distributed over 5-year period beginning with 2003 water rates.

**EAGLE FIELD WATER DISTRICT
RESOLUTION NO.**

**RESOLUTION CONSIDERING ENVIRONMENTAL
IMPACTS OF LONG-TERM RENEWAL
CONTRACT FOR CENTRAL VALLEY PROJECT WATER SERVICE,
APPROVING LONG-TERM RENEWAL CONTRACT,
AUTHORIZING EXECUTION THEREOF AND
AUTHORIZING RELATED ACTIONS**

WHEREAS, the Eagle Field Water District (the "District") entered into that certain contract between the United States and Eagle Field Water District Providing for Water Service, Contract No. 14-06-200-7754, dated April 10, 1959 (the "Original Contract"), providing for the delivery of up to 4550 acre feet of water diverted through Central Valley Project facilities and the District's distribution system.

WHEREAS, the Original Contract has expired and the District has entered into successive contracts to renew the Original Contract for each of the years since the expiration of the Original Contract (the "Interim Renewal Contract" or collectively, the "Interim Renewal Contracts"), continuing the same water service under substantially the same terms and conditions, except for price and length of term, as was provided in the Original Contract.

WHEREAS, the current Interim Renewal Contract will expire on February 28, 2006, or upon the execution of a long-term renewal contract with an effective date prior to February 28, 2006.

WHEREAS, the United States has offered the District a Long-Term Renewal Contract for a term of twenty-five (25) years, Contract No. 14-06-200-7754LTR1, between the District and the United States, which is on file with the Secretary of the Board (the Long-Term Renewal Contract) on substantially the same substantive terms and conditions as included in the most recent Interim Renewal Contract.

WHEREAS, the District has fully utilized, for reasonable and beneficial use, all water provided under the Original Contract and the Interim Renewal Contracts by receiving and delivering such water to lands within the District's boundaries for irrigation purposes, or putting such water to beneficial use through conservation and transfer in accordance with California law, and there is continuing need for such water over the next twenty-five (25) years as documented in Reclamation's water needs analysis for the Contract.

WHEREAS, it is imperative to the District and its landowners that the District renew, on a long-term basis, its water service contract with the United States of America pursuant to the Act of Congress of July 2, 1956 (70 Stat. 483) and the Act of Congress of October 30, 1992 (96 Stat. 1262), in order to provide for continued delivery of the same quantity of water to lands within the District's boundaries for a term of twenty-five (25) years.

WHEREAS, the Board has reviewed the terms of the proposed Long-Term Renewal Contract.

WHEREAS, water made available under the Long-Term Renewal Contract will be diverted through the same Central Valley Project facilities as the water provided under the Original Contract and the Interim Renewal Contracts.

WHEREAS, no expansion of water service will occur under the Long-Term Renewal Contract, as the District will distribute water received through the same distribution system as used for the Original Contract and Interim Renewal Contracts and will provide water under such renewal to the same lands within the boundaries of the District.

WHEREAS, the District has copies of contracts, water delivery reports, crop information and other data supporting these findings.

WHEREAS, the Board of Directors of the District has reviewed that certain memorandum re Preliminary Environmental Assessment – Long-Term Renewal Contract from the District Manager, which is on file with the Secretary of the Board, and which concludes that the District's action in approving the Long-Term Renewal Contract is a project that is exempt from further proceedings pursuant to the California Environmental Quality Act ("CEQA") for the reasons in said memorandum set forth.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

Section 1. The facts set forth in the recitals above and in the documents referenced therein are true and correct, and the Board of Directors so finds and determines.

Section 2. The Long-Term Renewal Contract in substantially the form presented to the Board and on file with the Secretary hereof is hereby approved.

Section 3. The President and Secretary of the District are hereby authorized and directed to execute the Long-Term Renewal Contract in substantially the form presented to the Board, subject to such additions, deletions and revisions as the executing officers may approve prior to execution, said execution providing conclusive proof of such approval.

Section 4. The Board further finds that:

A. Approval of the Long-Term Renewal Contract is statutorily exempt from further compliance with CEQA as provided in Title 14 of the California Code of Regulations ("CFR"), Section 15261, because it is merely the continuation of a project approved, funded and fully operated prior to November 23, 1970, and no modification or alteration in the Central Valley Project, the District distribution system or the amount of water delivered is proposed.

B. Insofar as the Long-Term Renewal Contract calls for changes in rates, such changes are statutorily exempt from further compliance with CEQA as provided in Title 14 CFR Section 15273(a).

C. Approval of the Long-Term Renewal Contract is categorically exempt from further proceedings under CEQA pursuant to Title 14 CFR Section 15301, because it merely provides for continued operation of an existing facility.

D. Approval of the Long-Term Renewal Project will not create any effects on the environment that make categorical exemptions inapplicable pursuant to Title 14 CFR 15300.2.

Section 5. The Manager of the District is hereby authorized and directed to prepare and file within 5 days a Notice of Exemption with the County Clerks of Fresno and Merced Counties for the District's Long-Term Renewal Contract for Central Valley Project Water Service, in accordance with Section 15062(b) of Title 14 of the California Code of Regulations.

Section 6. The District's officers, staff and consultants are hereby authorized and directed to take all additional actions that they deem necessary or appropriate to carry out the intent of this Resolution and to ensure continued water service to the District and its water users.

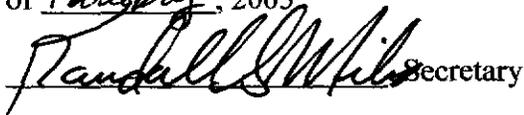
Passed and adopted this 13th day of February, 2005.


MAGUERITE E. BENNETT, President
Eagle Field Water District

ATTEST:


KANDALL S. MILES, Secretary

I HEREBY CERTIFY that the foregoing is the resolution of said District as duly passed and adopted by said Board of Directors at a meeting thereof duly called and held on this 13th day of February, 2005.


Secretary

