

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

CONTRACT BETWEEN THE UNITED STATES
AND
LINDMORE IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

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1 UNITED STATES
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5 CONTRACT BETWEEN THE UNITED STATES
6 AND
7 LINDMORE IRRIGATION DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM FRIANT DIVISION AND
10 FACILITIES REPAYMENT

11 THIS CONTRACT, made this _____ day of _____, 2010, is entered into
12 pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary thereto,
13 including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
15 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat.
16 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and Title X,
17 Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San Joaquin River
18 Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively hereinafter referred to
19 as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to
20 as the United States and LINDMORE IRRIGATION DISTRICT, hereinafter referred to as the
21 Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to
22 the laws thereof, with its principal place of business in California;

23 WITNESSETH, That

24 EXPLANATORY RECITALS

25 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
26 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood control,

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

31 [2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton
32 Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant
33 Division Facilities, which will be used in part for the furnishing of water to the Contractor pursuant to
34 the terms of this Contract; and

35 [3rd] WHEREAS, the United States and the Contractor entered into Contract Number I75r-
36 1635, as amended, which established terms for the delivery to the Contractor of Project Water from
37 the Friant Division from May 19, 1950 through February 28, 1990; and

38 [4th] WHEREAS, the Contractor and the United States have entered into a renewal contract
39 and, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA),
40 subsequently entered into an interim renewal contract(s) identified as Contract Number (s) I75r-
41 1635R and I75r-1635-IR1, which provided for the continued water service to Contractor from March
42 1, 1990 through February 28, 2001, and subsequently entered into a long-term renewal contract
43 identified as Contract Number I75r-1635-LTR1, which provided for continued water service to
44 Contractor through February 28, 2026, which was amended January 18, 2007, and is herein referred
45 to as the "Existing Contract"; and

46 [5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
47 United States has acquired water rights and other rights to the flows of the San Joaquin River,

48 including without limitation the permits issued as the result of Decision 935 by the California State
49 Water Resource Control Board and the contracts described in subdivision (n) of Article 3 of this
50 Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers Project
51 Water stored or flowing through Millerton Lake in accordance with State and Federal law for the
52 benefit of Project Contractors in the Friant Division and for other specified Project purposes; and

53 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project
54 Water developed through the exercise of the rights described in the fifth (5th) Explanatory Recital of
55 this Contract; and

56 [7th] WHEREAS, as a result of litigation entitled “Natural Resources Defense Council, et
57 al. v Kirk Rogers, et al.” No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant Division
58 entered into a Stipulation of Settlement dated September 13, 2006, (the “Settlement”), which
59 settlement prescribes a Restoration Goal and a Water Management Goal and which Settlement was
60 subsequently confirmed and implemented through the SJRRSA; and

61 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the Existing
62 Contract to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, no
63 later than December 31, 2010, and further directs that such contract shall require the accelerated
64 repayment of the Contractors’ allocated share of construction costs, either as a lump sum payment by
65 January 31, 2011 or in annual installments by January 31, 2014, which funds will in turn be made
66 available for implementation of the Settlement and SJRRSA, and which costs otherwise would have
67 been payable through annual water rates, with full repayment by 2030; and

68 [9th] WHEREAS, such repayment of costs will assist the United States with
69 implementation of actions required under the Settlement and the SJRRSA and provide the Contractor
70 the benefits provided in Section 10010 of the SJRRSA; and

71 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act) directs
72 the Secretary to provide that the other party to any contract entered into pursuant to subsection (d) of
73 Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to subsection (e) of Section 9
74 of the Act of August 4, 1939 (water service contract) shall “have the first right (to which the rights of
75 the holders of any other type of irrigation water contract shall be subordinate) to a stated share or
76 quantity of the project’s available water supply for beneficial use on the irrigable lands within the
77 boundaries of, or owned by, the party and a permanent right to such share or quantity upon
78 completion of payment of the amount assigned for ultimate return” by the contractor subject to
79 fulfillment of all obligations under the contract; and

80 [11th] WHEREAS, among other things, this Contract includes provisions granting the
81 Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

82 [12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
83 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
84 beneficial use and/or has demonstrated projected future demand for water use such that the
85 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the quantity
86 of Project Water to be made available to it pursuant to this Contract; and

87 [13th] WHEREAS, water obtained from the Central Valley Project has been relied upon by
88 urban and agricultural areas within California for more than fifty (50) years and is considered by the
89 Contractor as an essential portion of its water supply; and

90 [14th] WHEREAS, the economies of regions within the Central Valley Project, including the
91 Contractor's, depend upon the continued availability of water, including water service from the
92 Central Valley Project; and

93 [15th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
94 to pursue measures to improve water supply, water quality, and reliability of the Project for all
95 Project purposes; and

96 [16th] WHEREAS, the mutual goals of the United States and the Contractor include: to
97 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of
98 the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to
99 achieve a reasonable balance among competing demands for use of Project Water; and to comply
100 with all applicable environmental statutes, all consistent with the legal obligations of the United
101 States relative to the Central Valley Project; and

102 [17th] WHEREAS, any time during the Year the Contracting Officer determines that a need
103 exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to meet flood
104 control criteria (currently referred to as "uncontrolled season"), taking into consideration, among
105 other things, anticipated upstream reservoir operations and the most probable forecast of snowmelt
106 and runoff projections for the upper San Joaquin River, Friant Division Project Contractors utilize a
107 portion of their undependable Class 2 Water in their service areas to, among other things, assist in the

108 management and alleviation of groundwater overdraft in the Friant Division service area, provide
109 opportunities for restoration of the San Joaquin River below Friant Dam, minimize flooding along the
110 San Joaquin River, encourage optimal water management, and maximize the reasonable and
111 beneficial use of the water; and

112 [18th] WHEREAS, the parties desire and intend that this Contract not provide a disincentive
113 to the Friant Division Project Contractors continuing to carry out the beneficial activities set out in
114 the Explanatory Recital immediately above; and

115 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
116 its obligations under the Existing Contract.

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

119 DEFINITIONS

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

122 (a) “Additional Capital Obligation” shall mean any additional construction costs
123 or other capitalized costs incurred after the effective date of this Contract or not reflected in the
124 Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any amounts
125 payable by Contractor as determined through the final adjustment described and required by Section
126 10010(b) of the SJRRSA;

127 (b) “Calendar Year” shall mean the period January 1 through December 31, both
128 dates inclusive;

129 (c) "Charges" shall mean the payments required by Federal Reclamation law in
130 addition to the Rates and Tiered Pricing Components specified in this Contract as determined
131 annually by the Contracting Officer pursuant to this Contract and consistent with the SJRRSA;

132 (d) "Class 1 Water" shall mean that supply of water stored in or flowing through
133 Millerton Lake which, subject to the contingencies hereinafter described in Articles 3, 12, and 13 of
134 this Contract, will be available for delivery from Millerton Lake and the Friant-Kern and Madera
135 Canals as a dependable water supply during each Year;

136 (e) "Class 2 Water" shall mean that supply of water which can be made available
137 subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this Contract for
138 delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of
139 Class 1 Water. Because of its uncertainty as to availability and time of occurrence, such water will
140 be undependable in character and will be furnished only if, as, and when it can be made available as
141 determined by the Contracting Officer;

142 (f) "Condition of Shortage" shall mean a condition respecting the Project during
143 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract
144 Total;

145 (g) "Contracting Officer" shall mean the Secretary of the Interior's duly
146 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or
147 regulation;

148 (h) "Contract Total" shall mean the maximum amount of Class 1 Water plus the
149 maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract and is the

150 stated share or quantity of the Project’s available water supply to which the Contractor will have a
151 permanent right in accordance with the 1956 Act and the terms of this Contract, upon the Contractor's
152 complete payment of the Repayment Obligation, notwithstanding any Additional Capital Obligation
153 that may later be established, which right shall not be disturbed so long as the Contractor fulfills all of
154 its obligations under this Contract;

155 (i) “Contractor's Service Area” shall mean the area to which the Contractor is
156 permitted to provide Project Water under this Contract as described in Exhibit “A” attached hereto,
157 which may be modified from time to time in accordance with Article 36 of this Contract without
158 amendment of this Contract;

159 (j) “CVPIA” shall mean the Central Valley Project Improvement Act, Title
160 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

161 (k) “Eligible Lands” shall mean all lands to which Irrigation Water may be
162 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
163 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

164 (l) “Excess Lands” shall mean all lands in excess of the limitations contained in
165 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
166 Reclamation law;

167 (m) “Existing Capital Obligation” shall mean the remaining amount of construction
168 costs of the Contractor identified in the Central Valley Project Irrigation Water Rates and/or
169 Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as adjusted to reflect
170 payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A) of the SJRRSA. The

171 Contracting Officer has computed the Existing Capital Obligation in a manner consistent with the
172 SJRRSA and such amount is set forth in Exhibits “C-1” and “C-2”, incorporated herein by reference;

173 (n) “Financing Costs”, for purposes of computing the reduction of certain charges
174 as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference between the net
175 present value of the Existing Capital Obligation discounted using the full Treasury rate and the
176 Existing Capital Obligation discounted using one-half the Treasury Rate, as set forth in Section
177 10010(d)(3) of the SJRRA;

178 (o) “Full Cost Rate” shall mean that water rate described in Sections 205(a)(3) or
179 202(3) of the RRA, whichever is applicable;

180 (p) “Ineligible Lands” shall mean all lands to which Irrigation Water may not be
181 delivered in accordance with Section 204 of the RRA;

182 (q) “Irrigation Full Cost Water Rate” shall have the same meaning as “full cost” as
183 that term is used in Paragraph (3) of Section 202 of the RRA;

184 (r) “Irrigation Water” shall mean water made available from the Project that is
185 used primarily in the production of agricultural crops or livestock, including domestic use incidental
186 thereto, and watering of livestock;

187 (s) “Landholder” shall mean a party that directly or indirectly owns or leases
188 nonexempt land, as provided in 43 CFR 426.2;

189 (t) “Long Term Historic Average” shall mean the average of the final forecast of
190 Water Made Available to the Contractor pursuant to this Contract and the contracts referenced in the
191 third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

192 (u) "Municipal and Industrial (M&I) Water" shall mean water made available
193 from the Project other than Irrigation Water made available to the Contractor. M&I Water shall
194 include water used for human use and purposes such as the watering of landscaping or pasture for
195 animals (e.g., horses) which are kept for personal enjoyment or water delivered to land holdings
196 operated in units of less than five (5) acres unless the Contractor establishes to the satisfaction of the
197 Contracting Officer that the use of water delivered to any such landholding is a use described in
198 subdivision (r) of this Article of this Contract;

199 (v) "M&I Full Cost Water Rate" shall mean the annual rate, which, as determined
200 by the Contracting Officer, shall amortize the expenditures for construction allocable to Project M&I
201 facilities in service, including, O&M deficits funded, less payments, over such periods as may be
202 required under Federal Reclamation law with interest accruing from the dates such costs were first
203 incurred plus the applicable rate for the O&M of such Project facilities. Interest rates used in the
204 calculation of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in
205 Section 202(3) (B) and (C) of the RRA;

206 (w) "Operation and Maintenance" or "O&M" shall mean normal and reasonable
207 care, control, operation, repair, replacement (other than Capital replacement), and maintenance of
208 Project facilities;

209 (x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or its
210 successor, a Non-Federal entity, which has the obligation to operate and maintain all or a portion of
211 the Friant Division Facilities pursuant to an agreement with the United States and which may have
212 funding obligations with respect thereto;

213 (y) Omitted.

214 (z) “Project” shall mean the Central Valley Project owned by the United States
215 and managed by the Department of the Interior, Bureau of Reclamation;

216 (aa) “Project Contractors” shall mean all parties who have a long-term water
217 service contract or repayment contract for Project Water from the Project with the United States
218 pursuant to Federal Reclamation law;

219 (bb) “Project Water” shall mean all water that is developed, diverted, stored, or
220 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance
221 with the terms and conditions of water rights acquired pursuant to California law;

222 (cc) “Rates” shall mean the payments for O&M costs as determined annually by the
223 Contracting Officer in accordance with the then-existing applicable water ratesetting policies for the
224 Project, as described in subdivision (a) of Article 7 of this Contract and illustrated in Exhibit “B”,
225 attached hereto;

226 (dd) “Recovered Water Account” shall mean the program, as defined in the
227 Settlement, to make water available to all of the Friant Division Project Contractors who provide
228 water to meet interim flows or restoration flows for the purpose of reducing or avoiding the impact of
229 the interim flows and restoration flows on such contractors;

230 (ee) “Repayment Obligation”, as provided in subdivision (a)(2)(A) of Article 7 of
231 this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by one-half of
232 the Treasury rate and computed consistent with the provisions of Section 10010(3)(A) of the

233 SJRRSA to be paid as either a lump sum payment by January 31, 2011 or in approximately equal
234 annual installments by January 31, 2014;

235 (ff) “Secretary” shall mean the Secretary of the Interior, a duly appointed
236 successor, or an authorized representative acting pursuant to any authority of the Secretary and
237 through any agency of the Department of the Interior;

238 (gg) “Settlement” shall mean the Stipulation of Settlement dated September 13,
239 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued by
240 the Court pursuant to the terms and conditions of the Settlement in Natural Resources Defense
241 Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

242 (hh) “Tiered Pricing Component” shall be the incremental amount to be paid for
243 each acre-foot of Water Delivered as described in subdivision (l)(1) of Article 7 of this Contract;

244 (ii) “Water Delivered” or “Delivered Water” shall mean Project Water diverted for
245 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

246 (jj) “Water Made Available” shall mean the estimated amount of Project Water
247 that can be delivered to the Contractor for the upcoming Year as declared by the Contracting Officer,
248 pursuant to subdivision (a) of Article 4 of this Contract;

249 (kk) “Water Management Goal” shall mean the goal of the Settlement to reduce or
250 avoid adverse water supply impacts to all the Friant Division Project Contractors that may result from
251 the interim flows and restoration flows provided for in the Settlement;

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

255 (mm) "Year" shall mean the period from and including March 1 of each Calendar
256 Year through the last day of February of the following Calendar Year.

257 EFFECTIVE DATE OF CONTRACT

258 2. (a) This Contract shall become effective on the date first hereinabove written and
259 shall continue so long as the Contractor is making the annual payments required herein and paying
260 any other amounts owing under this Contract and applicable law, unless it is terminated by the
261 Contracting Officer by reason of a material uncured breach by the Contractor; Provided, That the
262 Contracting Officer shall not seek to terminate this Contract by reason of an asserted material
263 uncured breach by the Contractor unless it has first provided at least sixty (60) days written notice of
264 the asserted breach to the Contractor and the Contractor has failed to cure such breach (or to
265 diligently commence curative actions satisfactory to the Contracting Officer for a breach that cannot
266 be fully cured within sixty (60) days) within the sixty (60)-day notice period; Provided further, That
267 this Contract may be terminated at any time by mutual consent of the parties hereto.

268 (b) Upon complete payment of the Repayment Obligation by the Contractor, and
269 notwithstanding any Additional Capital Obligation that may later be established, the Tiered Pricing
270 Component as that term is utilized in this Contract, the acreage limitations, reporting, and Full Cost
271 pricing provisions of Federal Reclamation law, and subdivisions (k), (l), (o) through (q), (s), and (v)
272 of Article 1, subdivisions (a)(2)(A), (l)(1), (l)(2), and (l)(3) of Article 7, Article 14, subdivision (a) of

273 Article 18, and Article 25, all of this Contract, shall no longer be applicable to the Contractor. Upon
274 complete payment of the Repayment Obligation by the Contractor, and notwithstanding any
275 Additional Capital Obligation that may later be established, the terms of this Contract shall be as
276 provided in the restated contract attached hereto as Exhibit “E”, which has been prepared solely as a
277 matter of administrative convenience. Exhibit “E” makes no substantive revisions other than those
278 required by this subdivision of this Article of this Contract. Accordingly, upon complete payment of
279 the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation
280 that may later be established, the parties shall refer to Exhibit “E” as their entire agreement under this
281 Contract.

282 (c) This Contract supersedes in its entirety and is intended to replace in full the
283 Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or
284 unenforceable for any reason other than a material uncured breach of this Contract by the Contractor,
285 the Existing Contract shall not be superseded and shall be in full force and effect.

286 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

287 3. (a) During each Year, consistent with all applicable State water rights, permits,
288 and licenses, Federal law, the Settlement including the SJRRSA, and subject to the provisions set
289 forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make available for delivery
290 to the Contractor from the Project 33,000 acre-feet of Class 1 Water and 22,000 acre-feet of Class 2
291 Water for irrigation and M&I purposes. The quantity of Water Delivered to the Contractor in
292 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of
293 Articles 4 and 7 of this Contract.

294 (b) Upon complete payment of the Repayment Obligation by the Contractor, and
295 notwithstanding any Additional Capital Obligation that may later be established, the Contractor shall
296 have a permanent right to the Contract Total in accordance with the 1956 Act and the terms of this
297 Contract. This right shall not be disturbed so long as the Contractor fulfills all of its obligations
298 hereunder. The quantity of water made available for delivery in any given Year shall remain subject
299 to the terms and conditions of subdivision (a) of this Article of this Contract.

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

302 (d) The Contractor shall make reasonable and beneficial use of all Project Water
303 or other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater
304 banking programs, surface water storage programs, and other similar programs utilizing Project
305 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service
306 Area which are consistent with applicable State law and result in use consistent with applicable
307 Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are)
308 described in the Contractor's Water Conservation Plan submitted pursuant to Article 27 of this
309 Contract; Provided further, That such Water Conservation Plan demonstrates sufficient lawful uses
310 exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered
311 Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation
312 law. Groundwater recharge programs, groundwater banking programs, surface water storage
313 programs, and other similar programs utilizing Project Water or other water furnished pursuant to this
314 Contract conducted outside the Contractor's Service Area may be permitted upon written approval of

315 the Contracting Officer, which approval will be based upon environmental documentation, Project
316 Water rights, and Project operational concerns. The Contracting Officer will address such concerns
317 in regulations, policies, or guidelines.

318 (e) The Contractor, through this Contract, shall comply with requirements
319 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation regarding
320 the execution of the Existing Contract undertaken pursuant to Section 7 of the Endangered Species
321 Act of 1973, as amended, as well as the requirements of any other biological opinions applicable to
322 Project Water delivery under this Contract, that are within the Contractor's legal authority to
323 implement. The Contractor shall comply with the limitations or requirements imposed by
324 environmental documentation applicable to the Contractor and within its legal authority to implement
325 regarding specific activities, including conversion of Irrigation Water to M&I Water. Nothing herein
326 shall be construed to prevent the Contractor from challenging or seeking judicial relief in a court of
327 competent jurisdiction with respect to any biological opinion or other environmental documentation
328 referred to in this Article of this Contract.

329 (f) Subject to subdivisions (l) and (n) of this Article of this Contract, following the
330 declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will
331 make a determination whether Project Water, or other water available to the Project, can be made
332 available to the Contractor in addition to the Contract Total in this Article of this Contract during the
333 Year without adversely impacting the Project or other Project Contractors and consistent with the
334 Secretary's legal obligations. At the request of the Contractor, the Contracting Officer will consult
335 with the Contractor prior to making such a determination. Subject to subdivisions (l) and (n) of this

336 Article of this Contract, if the Contracting Officer determines that Project Water, or other water
337 available to the Project, can be made available to the Contractor, the Contracting Officer will
338 announce the availability of such water and shall so notify the Contractor as soon as practical. The
339 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of
340 taking such water to determine the most equitable and efficient allocation of such water. If the
341 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make
342 such water available to the Contractor in accordance with applicable statutes, regulations, guidelines,
343 and policies.

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

350 (h) The Contractor’s right pursuant to Federal Reclamation law and applicable
351 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract shall
352 not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract.
353 Nothing in the preceding sentence shall affect the Contracting Officer’s ability to impose shortages
354 under Article 12 or subdivision (b) of Article 13 of this Contract.

355 (i) Project Water furnished to the Contractor pursuant to this Contract may be
356 delivered for purposes other than those described in subdivisions (r) and (u) of Article 1 of this

357 Contract upon written approval by the Contracting Officer in accordance with the terms and
358 conditions of such approval.

359 (j) The Contracting Officer shall make reasonable efforts to protect the water
360 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to provide
361 the water available under this Contract. The Contracting Officer shall not object to participation by
362 the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings
363 related to the water rights and other rights described in the fifth (5th) Explanatory Recital of this
364 Contract; Provided however, That the Contracting Officer retains the right to object to the substance
365 of the Contractor's position in such a proceeding. Provided further, that in such proceedings the
366 Contracting Officer shall recognize the Contractor has a legal right under the terms of this Contract to
367 use Project Water.

368 (k) Project Water furnished to the Contractor during any month designated in a
369 schedule or revised schedule submitted by the Contractor and approved by the Contracting Officer
370 shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent that Class 1
371 Water is called for in such schedule for such month and shall be deemed to have been accepted as
372 Class 2 Water to the extent Class 2 Water is called for in such schedule for such month. If in any
373 month the Contractor diverts a quantity of water in addition to the total amount of Class 1 Water and
374 Class 2 Water set forth in the Contractor's approved schedule or revised schedule for such month,
375 such additional diversions shall be charged first against the Contractor's remaining Class 2 Water
376 supply available in the current Year. To the extent the Contractor's remaining Class 2 Water supply
377 available in the current Year is not sufficient to account for such additional diversions, such

378 additional diversions shall be charged against the Contractor's remaining Class 1 Water supply
379 available in the current Year. To the extent the Contractor's remaining Class 1 Water and Class 2
380 Water supplies available in the current Year are not sufficient to account for such additional
381 diversions, such additional diversions shall be charged first against the Contractor's available Class 2
382 Water supply and then against the Contractor's available Class 1 Water supply, both for the following
383 Year. Payment for all additional diversions of water shall be made in accordance with Article 7 of
384 this Contract.

385 (l) If the Contracting Officer determines there is a Project Water supply available
386 at Friant Dam as the result of an unusually large water supply not otherwise storable for Project
387 purposes or infrequent and otherwise unmanaged flood flows of short duration, such water will be
388 made available to the Contractor and others under Section 215 of the Act of October 12, 1982,
389 pursuant to the priorities specified below if the Contractor enters into a temporary contract with the
390 United States not to exceed one (1) year for the delivery of such water or as otherwise provided for in
391 Federal Reclamation law and associated regulations. Such water may be identified by the Contractor
392 either (i) as additional water to supplement the supply of Class 1 Water and/or Class 2 Water made
393 available to it pursuant to this Contract or, (ii) upon written notification to the Contracting Officer, as
394 water to be credited against the Contractor's Class 2 Water supply available pursuant to this Contract.
395 The Contracting Officer shall make water determined to be available pursuant to this subsection
396 according to the following priorities: first, to contractors for Class 1 Water and/or Class 2 Water
397 within the Friant Division; second, to contractors in the Cross Valley Division of the Project. The
398 Contracting Officer will consider requests from other parties for Section 215 Water for use within the

399 area identified as the Friant Division service area in the environmental assessment developed in
400 connection with the execution of the Existing Contract.

401 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
402 Contracting Officer in connection with the implementation of this Contract, is intended to override,
403 modify, supersede or otherwise interfere with any term or condition of the water rights and other
404 rights referred in the fifth (5th) Explanatory Recital of this Contract.

405 (n) The rights of the Contractor under this Contract are subject to the terms of the
406 contract for exchange waters, dated July 27, 1939, between the United States and the San Joaquin and
407 Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred to as the
408 Exchange Contractors), Contract No. I1r-1144, as amended. The United States agrees that it will not
409 deliver to the Exchange Contractors thereunder waters of the San Joaquin River unless and until
410 required by the terms of said contract, and the United States further agrees that it will not voluntarily
411 and knowingly determine itself unable to deliver to the Exchange Contractors entitled thereto from
412 water that is available or that may become available to it from the Sacramento River and its
413 tributaries or the Sacramento-San Joaquin Delta those quantities required to satisfy the obligations of
414 the United States under said Exchange Contract and under Schedule 2 of the Contract for Purchase of
415 Miller and Lux Water Rights (Contract I1r-1145, dated July 27, 1939).

416 (o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph 16 of
417 the Settlement, the Contracting Officer is required to develop and implement a plan for recirculation,
418 recapture, reuse, exchange or transfer of water released for restoration flows or interim flows, as
419 those terms are defined in the Settlement, to reduce or avoid impacts to water deliveries caused by

420 said restoration flows or interim flows. Water developed through such activities may be made
421 available (i) to the Contractor without the need of an additional contract, and/or (ii) to others on
422 behalf of the Contractor under terms mutually acceptable to the Contractor and the Contracting
423 Officer that are consistent with the Water Management Goal.

424 TIME FOR DELIVERY OF WATER

425 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
426 announce the Contracting Officer's initial declaration of the Water Made Available. The declaration
427 will be updated monthly and more frequently if necessary, based on then-current operational and
428 hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will
429 be made. The Contracting Officer shall provide forecasts of Project operations and the basis of the
430 estimate, with relevant supporting information, upon the written request of the Contractor.
431 Concurrently with the declaration of the Water Made Available, the Contracting Officer shall provide
432 the Contractor with the updated Long Term Historic Average. The declaration of Project operations
433 will be expressed in terms of both Water Made Available and the Long Term Historic Average.
434 (b) On or before each March 1 and at such other times as necessary, the Contractor
435 shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer,
436 showing the monthly quantities of Project Water to be delivered by the United States to the
437 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting
438 Officer shall use all reasonable means to deliver Project Water according to the approved schedule
439 for the Year commencing on such March 1.

440 (c) The Contractor shall not schedule Project Water in excess of the quantity of
441 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's
442 Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract or bank pursuant
443 to subdivision (d) of Article 3 of this Contract during any Year.

444 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
445 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
446 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
447 revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to
448 the date(s) on which the requested change(s) is/are to be implemented; Provided, That the total
449 amount of water requested in that schedule or revision does not exceed the quantities announced by
450 the Contracting Officer pursuant to the provisions of subdivision (a) of Article 3 of this Contract, and
451 the Contracting Officer determines that there will be sufficient capacity available in the appropriate
452 Friant Division Facilities to deliver the water in accordance with that schedule; Provided further,
453 That the Contractor shall not schedule the delivery of any water during any period as to which the
454 Contractor is notified by the Contracting Officer or Operating Non-Federal Entity that Project
455 facilities required to make deliveries to the Contractor will not be in operation because of scheduled
456 O&M.

457 (e) The Contractor may, during the period from and including November 1 of each
458 Year through and including the last day of February of that Year, request delivery of any amount of
459 the Class 1 Water estimated by the Contracting Officer to be made available to it during the following
460 Year. The Contractor may, during the period from and including January 1 of each Year (or such

461 earlier date as may be determined by the Contracting Officer) through and including the last day of
462 February of that Year, request delivery of any amount of Class 2 Water estimated by the Contracting
463 Officer to be made available to it during the following Year. Such water shall hereinafter be referred
464 to as pre-use water. Such request must be submitted in writing by the Contractor for a specified
465 quantity of pre-use and shall be subject to the approval of the Contracting Officer. Payment for pre-
466 use water so requested shall be at the appropriate Rate(s) for the following Year in accordance with
467 Article 7 of this Contract and shall be made in advance of delivery of any pre-use water. The
468 Contracting Officer shall deliver such pre-use water in accordance with a schedule or any revision
469 thereof submitted by the Contractor and approved by the Contracting Officer, to the extent such water
470 is available and to the extent such deliveries will not interfere with the delivery of Project Water
471 entitlements to other Friant Division contractors or the physical maintenance of the Project facilities.
472 The quantities of pre-use Water Delivered pursuant to this subdivision shall be deducted from the
473 quantities of water that the Contracting Officer would otherwise be obligated to make available to the
474 Contractor during the following Year; Provided, That the quantity of pre-use water to be deducted
475 from the quantities of either Class 1 Water or Class 2 Water to be made available to the Contractor in
476 the following Year shall be specified by the Contractor at the time the pre-use water is requested or as
477 revised in its first schedule for the following Year submitted in accordance with subdivision (b) of
478 this Article of this Contract, based on the availability of the following Year water supplies as
479 determined by the Contracting Officer.

480 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

485 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
486 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in
487 the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts established
488 pursuant to subdivision (a) of this Article of this Contract.

489 (c) The Contractor shall not deliver Project Water to land outside the Contractor's
490 Service Area unless approved in advance by the Contracting Officer. Until complete payment of the
491 Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that
492 may later be established, the Contractor shall deliver Project Water in accordance with applicable
493 acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law and any
494 applicable land classification provisions of the associated regulations.

495 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
496 measured and recorded with equipment furnished, installed, operated, and maintained by the United
497 States, the Operating Non-Federal Entity or other appropriate entity as designated by the Contracting
498 Officer (hereafter "other appropriate entity") at the point or points of delivery established pursuant to
499 subdivision (a) of this Article of this Contract. Upon the request of either party to this Contract, the
500 Contracting Officer shall investigate, or cause to be investigated by the responsible Operating Non-
501 Federal Entity, the accuracy of such measurements and shall take any necessary steps to adjust any

502 errors appearing therein. For any period of time when accurate measurements have not been made,
503 the Contracting Officer shall consult with the Contractor and the responsible Operating Non-Federal
504 Entity prior to making a final determination of the quantity delivered for that period of time.

505 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be
506 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
507 Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in
508 subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United States, its
509 officers, employees, agents, and assigns on account of damage or claim of damage of any nature
510 whatsoever for which there is legal responsibility, including property damage, personal injury, or
511 death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of
512 such Project Water beyond such delivery points, except for any damage or claim arising out of: (i)
513 acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns,
514 including any responsible Operating Non-Federal Entity, with the intent of creating the situation
515 resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its
516 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity; (iii)
517 negligence of the Contracting Officer or any of its officers, employees, agents, or assigns including
518 any responsible Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction
519 of facilities owned and/or operated by the United States or responsible Operating Non-Federal Entity;
520 Provided, That the Contractor is not the Operating Non-Federal Entity that owned or operated the
521 malfunctioning facility(ies) from which the damage claim arose.

522 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

523 6. (a) The Contractor has established a measurement program satisfactory to the
524 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor’s
525 Service Area is measured at each agricultural turnout; and water delivered for municipal and
526 industrial purposes is measured at each municipal and industrial service connection. The water
527 measuring devices or water measuring methods of comparable effectiveness must be acceptable to
528 the Contracting Officer. The Contractor shall be responsible for installing, operating, and
529 maintaining and repairing all such measuring devices and implementing all such water measuring
530 methods at no cost to the United States. The Contractor shall use the information obtained from such
531 water measuring devices or water measuring methods to ensure its proper management of the water,
532 to bill water users for water delivered by the Contractor; and, if applicable, to record water delivered
533 for municipal and industrial purposes by customer class as defined in the Contractor’s water
534 conservation plan provided for in Article 27 of this Contract. Nothing herein contained, however,
535 shall preclude the Contractor from establishing and collecting any charges, assessments, or other
536 revenues authorized by California law.

537 (b) To the extent the information has not otherwise been provided, upon execution
538 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
539 the measurement devices or water measuring methods being used or to be used to implement
540 subdivision (a) of this Article of this Contract and identifying the agricultural turnouts and the
541 municipal and industrial service connections or alternative measurement programs approved by the
542 Contracting Officer, at which such measurement devices or water measuring methods are being used,
543 and, if applicable, identifying the locations at which such devices and/or methods are not yet being

544 used including a time schedule for implementation at such locations. The Contracting Officer shall
545 advise the Contractor in writing within sixty (60) days as to the adequacy of, and necessary
546 modifications, if any, of the measuring devices or water measuring methods identified in the
547 Contractor's report and if the Contracting Officer does not respond in such time, they shall be
548 deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices or
549 methods are inadequate, the parties shall within sixty (60) days following the Contracting Officer's
550 response, negotiate in good faith the earliest practicable date by which the Contractor shall modify
551 said measuring devices and/or measuring methods as required by the Contracting Officer to ensure
552 compliance with subdivision (a) of this Article of this Contract.

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

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

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

562 RATES, METHOD OF PAYMENT FOR WATER,
563 AND ACCELERATED REPAYMENT OF FACILITIES

564 7. (a) The Contractor's cost obligations for all Delivered Water shall be determined
565 in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the

566 Secretary's then-existing ratesetting policy for M&I Water, consistent with the SJRRSA, and such
567 ratesetting policies shall be amended, modified, or superseded only through a public notice and
568 comment procedure; (ii) applicable Federal Reclamation law and associated rules and regulations, or
569 policies; and (iii) other applicable provisions of this Contract.

570 (1) The Contractor shall pay the United States as provided for in this
571 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance with
572 policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to recover
573 its estimated reimbursable costs included in the O&M Component of the Rate and amounts
574 established to recover other charges and deficits, other than the construction costs. The Rates for
575 O&M costs and Charges shall be adjusted, as appropriate, in accordance with the provisions of the
576 SJRRSA.

577 (2) In accordance with the SJRRSA, the Contractor's allocable share of
578 Project construction costs will be repaid pursuant to the provisions of this Contract.

579 (A) The amount due and payable to the United States, pursuant to
580 the SJRRSA, shall be the Repayment Obligation. The Repayment Obligation has been computed by
581 the Contracting Officer in a manner consistent with the SJRRSA and is set forth, both as a lump sum
582 payment and as four (4) approximately equal annual installments, which amounts together with the
583 manner in which such amounts were calculated are set forth in Exhibits "C-1" and "C-2". The
584 Repayment Obligation is due in lump sum by January 31, 2011 or in approximate equal annual
585 installments no later than January 31, 2014, as provided by the SJRRSA. The Contractor must
586 provide appropriate notice to the Contracting Officer in writing not later than thirty (30) days prior to

587 January 31, 2011 if electing to repay the amount due using the lump sum alternative. If such notice is
588 not provided by such date, the Contractor shall be deemed to have elected the installment payment
589 alternative, in which case, the first such payment shall be made no later than May 1, 2011, the second
590 payment shall be made no later than the first anniversary of the first payment date, the third payment
591 shall be made no later than the second anniversary of the first payment date, and the final payment
592 shall be made no later than January 31, 2014. If the installment payment option is elected by the
593 Contractor, the Contractor may pre-pay the remaining portion of the Repayment Obligation by giving
594 the Contracting Officer sixty (60) days written notice, in which case, the Contracting Officer shall re-
595 compute the remaining amount due to reflect the pre-payment using the same methodology as was
596 used to compute the initial annual installment payment amount, which is illustrated in Exhibit "C-2".
597 Notwithstanding any Additional Capital Obligation that may later be established, receipt of the
598 Contractor's payment of the Repayment Obligation by the United States shall fully and permanently
599 satisfy the Existing Capital Obligation.

600 (B) Project construction costs or other capitalized costs attributable
601 to capital additions to the Project incurred after the effective date of this Contract or that are not
602 reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly assignable to the
603 Contractor, shall be repaid as prescribed by the SJRRSA without interest except as required by law.
604 Consistent with Federal Reclamation law, interest shall continue to accrue on the M&I portion of
605 unpaid Project construction costs or other capitalized cost assigned to the Contractor until such costs
606 are paid. Increases or decreases in Project construction costs or other capitalized costs assigned to the
607 Contractor caused solely by annual adjustment of Project construction costs or other capitalized costs

608 assigned to each CVP contractor by the Secretary shall not be considered in determining the amounts
609 to be paid pursuant to this subdivision (a)(2)(B), but will be considered under subdivision (b) of this
610 Article. A separate repayment agreement shall be established by the Contractor and the Contracting
611 Officer to accomplish repayment of all additional Project construction costs or other capitalized costs
612 assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the following:

613 (1) If the collective annual Project construction costs or
614 other capitalized costs that are incurred after the effective date of this Contract and properly
615 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly
616 assignable to the Contractor shall be repaid in not more than five (5) years after notification of the
617 allocation. This amount is the result of a collective annual allocation of Project construction costs to
618 the contractors exercising contract conversions; Provided, That the reference to the amount of
619 \$5,000,000 shall not be a precedent in any other context.

620 (2) If the collective annual Project construction costs or
621 other capitalized costs that are incurred after the effective date of this Contract and properly
622 assignable to the contractors are \$5,000,000 or greater, then the portion of such costs properly
623 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law. This
624 amount is the result of a collective annual allocation of Project construction costs to the contractors
625 exercising contract conversions; Provided, That the reference to the amount of \$5,000,000 shall not
626 be a precedent in any other context.

627 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost
628 allocation by the Secretary upon completion of the construction of the Central Valley Project, the

629 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any reallocation
630 of Project construction costs or other capitalized costs assigned to the Contractor that may have
631 occurred between the determination of Contractor's Existing Capital Obligation and the final cost
632 allocation. In the event that the final cost allocation, as determined by the Secretary, indicates that
633 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are greater
634 than the Existing Capital Obligation and other amounts of Project construction costs or other
635 capitalized costs paid by the Contractor, then the Contractor shall be obligated to pay the remaining
636 allocated costs. The term of such additional repayment contract shall be no less than one (1) year and
637 no more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment
638 of such amount may be developed by the parties. In the event that the final cost allocation, as
639 determined by the Secretary, indicates that the costs properly assignable to the Contractor, as
640 determined by the Contracting Officer, are less than the Existing Capital Obligation and other
641 amounts of Project construction costs or other capitalized costs paid by the Contractor, then the
642 Contracting Officer shall credit such overpayment as an offset against any outstanding or future
643 obligation of the Contractor, consistent with the SJRRSA. This Contract shall be implemented in a
644 manner consistent with Section 10010(f) of the SJRRSA.

645 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the
646 Contractor an estimate of the Charges for Project Water that will be applied to the period October 1,
647 of the current Calendar Year, through September 30, of the following Calendar Year, and the basis
648 for such estimate. The Contractor shall be allowed not less than two (2) months to review and
649 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting

650 Officer shall notify the Contractor in writing of the Charges to be in effect during the period October
651 1 of the current Calendar Year, through September 30 of the following Calendar Year, and such
652 notification shall revise Exhibit “B”. Charges shall be subject to reduction consistent with the
653 SJRRSA based upon the average annual delivery amount agreed to by the Contracting Officer and the
654 Contractor.

655 (1) Upon complete payment of the Repayment Obligation by the
656 Contractor, and notwithstanding any Additional Capital Obligation that may later be established, for
657 the years 2020 through 2039 inclusive, Charges shall reflect the reduction on a per acre-foot basis
658 consistent with Section 10010(d)(1) of the SJRRSA. Exhibit “D” sets forth the reduction in Charges
659 to offset the Financing Costs as prescribed in Section 10010(d)(1) of the SJRRSA; Provided, That if
660 the Secretary determines such Charges are otherwise needed, an equivalent reduction will be made to
661 O&M costs consistent with such provisions of the SJRRSA. Consistent with Section 10010(d)(1) of
662 the SJRRSA and as shown in Exhibit “D”, the Friant Surcharge reduction has been calculated based
663 upon the anticipated average annual water deliveries, for the purpose of this reduction only, mutually
664 agreed upon by the Secretary and the Contractor for the period from January 1, 2020 through
665 December 31, 2039. The Friant Surcharge reduction shall remain fixed and shall only be applied to
666 Water Delivered pursuant to this Contract to which the Friant Surcharge applies (including but not
667 limited to water transferred, banked, or exchanged), commencing on January 1, 2020 until such
668 volume of Water Delivered equals 622,600 acre-feet or December 31, 2039, whichever occurs first.

669 (2) Further, to fully offset the Financing Costs, Contractor shall be entitled
670 to a reduction in other outstanding or future obligations of the Contractor in accordance with Section

671 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding or future
672 obligations of the Contractor after October 1, 2019 has been computed by the Contracting Officer,
673 and as computed, such amount is set forth in Exhibit "D".

674 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall make
675 available to the Contractor an estimate of the Rates and Tiered Pricing Component for Project Water
676 for the following Year and the computations and cost allocations upon which those Rates are based.
677 The Contractor shall be allowed not less than two (2) months to review and comment on such
678 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer
679 shall provide the Contractor with the final Rates and Tiered Pricing Component to be in effect for the
680 upcoming Year, and such notification shall revise Exhibit "B". The O&M component of the Rate
681 may be reduced as provided in the SJRRSA.

682 (e) At the time the Contractor submits the initial schedule for the delivery of
683 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
684 shall make an advance payment to the United States equal to the total amount payable pursuant to the
685 applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the Project Water
686 scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the
687 Year. Before the end of the first month and before the end of each calendar month thereafter, the
688 Contractor shall make an advance payment to the United States, at the Rate(s) set under subdivision
689 (a) of this Article of this Contract, for the Water Scheduled to be delivered pursuant to this Contract
690 during the second month immediately following. Adjustments between advance payments for Water
691 Scheduled and payments at Rates due for Water Delivered shall be made before the end of the

692 following month; Provided, That any revised schedule submitted by the Contractor pursuant to
693 Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract
694 during any month shall be accompanied with appropriate advance payment, at the Rates then in
695 effect, to assure that Project Water is not delivered to the Contractor in advance of such payment. In
696 any month in which the quantity of Water Delivered to the Contractor pursuant to this Contract
697 equals the quantity of Water Scheduled and paid for by the Contractor, no additional Project Water
698 shall be delivered to the Contractor unless and until an advance payment at the Rates then in effect
699 for such additional Project Water is made. Final adjustment between the advance payments for the
700 Water Scheduled and payments for the quantities of Water Delivered during each Year pursuant to
701 this Contract shall be made as soon as practicable but no later than April 30th of the following Year,
702 or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article 3 of
703 this Contract if such water is not delivered by the last day of February.

704 (f) The Contractor shall also make a payment in addition to the Rate(s) in
705 subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the
706 Charges and the appropriate Tiered Pricing Component then in effect, before the end of the month
707 following the month of delivery; Provided, That the Contractor may be granted an exception from the
708 Tiered Pricing Component pursuant to subdivision (1)(2) of this Article of this Contract. The
709 payments shall be consistent with the quantities of Irrigation Water and M&I Water Delivered as
710 shown in the water delivery report for the subject month prepared by the Contracting Officer. Such
711 water delivery report shall be the basis for payment of Charges and Tiered Pricing Components by
712 the Contractor, and shall be provided to the Contractor by the Contracting Officer (as applicable)

713 within five (5) days after the end of the month of delivery. The water delivery report shall be deemed
714 a bill basis for payment of Charges and the applicable Tiered Pricing Component for Water
715 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the
716 adjustment of payments due to the United States for Charges for the next month. Any amount to be
717 paid for past due payment of Charges shall be computed pursuant to Article 21 of this Contract.

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

724 (h) Payments to be made by the Contractor to the United States under this
725 Contract may be paid from any revenues available to the Contractor.

726 (i) All revenues received by the United States from the Contractor relating to the
727 delivery of Project Water or the delivery of non-project water through Project facilities shall be
728 allocated and applied in accordance with Federal Reclamation law and the associated rules or
729 regulations, the then-existing Project Ratesetting policies for M&I Water or Irrigation Water, and
730 consistent with the SJRRSA.

731 (j) The Contracting Officer shall keep its accounts, pertaining to the
732 administration of the financial terms and conditions of its long-term contracts, in accordance with
733 applicable Federal standards so as to reflect the application of Project costs and revenues. The

734 Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a
735 detailed accounting of all Project and Contractor expense allocations, the disposition of all Project
736 and Contractor revenues, and a summary of all water delivery information. The Contracting Officer
737 and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes
738 relating to accountings, reports, or information.

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

746 (l) (1) Beginning at such time as the total of the deliveries of Class 1 Water
747 and Class 2 Water in a Year exceed eighty (80%) percent of the Contract Total, then before the end
748 of the month following the month of delivery the Contractor shall make an additional payment to the
749 United States equal to the applicable Tiered Pricing Component. The Tiered Pricing Component for
750 the total of the deliveries of Class 1 Water and Class 2 Water in excess of eighty (80%) percent of the
751 Contract Total, but less than or equal to ninety (90%) percent of the Contract Total, shall equal the
752 one-half of the difference between the Rate established under subdivision (a) of this Article of this
753 Contract and the Irrigation Full Cost Water Rate, or M&I Full Cost Water Rate, whichever is
754 applicable. The Tiered Pricing Component for the total of the deliveries of Class 1 Water and Class 2

755 Water which exceeds ninety (90%) percent of the Contract Total shall equal the difference between
756 (i) the Rate established under subdivision (a) of this Article of this Contract and (ii) the Irrigation Full
757 Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable.

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

765 (3) For purposes of determining the applicability of the Tiered Pricing
766 Components pursuant to this Article of this Contract, Water Delivered shall include Project Water
767 that the Contractor transfers to others but shall not include Project Water transferred and delivered to
768 the Contractor.

769 (m) Rates under the respective ratesetting policies will be established to recover
770 only reimbursable O&M (including any deficits) costs of the Project, as those terms are used in the
771 then-existing Project ratesetting policies, and consistent with the SJRRSA, and interest, where
772 appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant
773 Project ratesetting policy. Changes of significance in practices which implement the Contracting
774 Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the
775 Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

776 (n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
777 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
778 upward or downward to reflect the changed costs of delivery (if any) incurred by the Contracting
779 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in
780 accordance with the then-existing Central Valley Project Ratesetting Policy.

781 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

782 8. The Contractor and the Contracting Officer concur that, as of the effective date of this
783 Contract, the Contractor has no non-interest bearing operation and maintenance deficits and therefore
784 shall have no further liability.

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RECOVERED WATER ACCOUNT

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9. (a) Notwithstanding any other provisions of this Contract, water delivered to the Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the Settlement and affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of \$10.00 per acre foot.

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Recovered Water Account water provided to the Contractor shall be administered at a priority for delivery lower than Class 2 Water and higher than Section 215 Water.

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(b) The manner in which the Recovered Water Account will be administered will be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA, and Paragraph 16 of the Settlement.

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SALES, TRANSFERS, AND EXCHANGES OF WATER

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10. (a) The right to receive Project Water provided for in this Contract may be sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take place without the prior written approval of the Contracting Officer, except as provided for in subdivisions (b) and (c) of this Article of this Contract. No such Project Water sales, transfers, or exchanges shall be approved, where approval is required, absent compliance with appropriate environmental documentation including but not limited to the National Environmental Policy Act and the Endangered Species Act. Such environmental documentation must include, as appropriate, an analysis of groundwater impacts and economic and social effects, including environmental justice, of the proposed Project Water sales, transfers and exchanges on both the

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807 transferor/exchanger and transferee/exchange recipient.

808 (b) In order to facilitate efficient water management by means of Project Water
809 sales, transfers, or exchanges of the type historically carried out among Project Contractors located
810 within the same geographical area and to allow the Contractor to participate in an accelerated water
811 transfer program, the Contracting Officer has prepared, as appropriate, necessary environmental
812 documentation including, but not limited to, the National Environmental Policy Act and the
813 Endangered Species Act analyzing annual Project Water sales, transfers, or exchanges among
814 Contractors within the same geographical area and the Contracting Officer has determined that such
815 Project Water sales, transfers, and exchanges comply with applicable law.

816 (c) Project Water sales, transfers, and exchanges analyzed in the environmental
817 documentation referenced in subdivision (b) of this Article of this Contract, shall be conducted with
818 advance notice to the Contracting Officer and the Contracting Officer's written acknowledgement of
819 the transaction, but shall not require prior written approval by the Contracting Officer.

820 (d) For Project Water sales, transfers, or exchanges to qualify under subdivision
821 (b) of this Article of this Contract such Project Water sale, transfer, or exchange must: (i) be for
822 irrigation purposes for lands irrigated within the previous three (3) years, for M&I use, groundwater
823 recharge, groundwater banking, similar groundwater activities, surface water storage, or fish and
824 wildlife resources; not lead to land conversion; and be delivered to established cropland, wildlife
825 refuges, groundwater basins or municipal and industrial use; (ii) occur within a single Year; (iii)
826 occur between a willing seller and a willing buyer or willing exchangers; (iv) convey water through
827 existing facilities with no new construction or modifications to facilities and be between existing

828 Project Contractors and/or the Contractor and the United States, Department of the Interior; and (v)
829 comply with all applicable Federal, State, and local or tribal laws and requirements imposed for
830 protection of the environment and Indian Trust Assets, as defined under Federal law.

831 (e) The environmental documentation and the Contracting Officer's compliance
832 determination for transactions described in subdivision (b) of this Article of this Contract shall be
833 reviewed every five (5) years and updated, as necessary, prior to the expiration of the then-existing
834 five (5) year period. All subsequent environmental documentation shall include an alternative to
835 evaluate not less than the quantity of Project Water historically sold, transferred, or exchanged within
836 the same geographical area.

837 (f) Consistent with Section 10010(e)(l) of the SJRRSA, any agreement providing
838 for sale, transfer, or exchange of Project Water that is not used for interim flows or restoration flows
839 pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy the requirements of
840 CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or exchanges comply with
841 sub-division (f)(1) and (f)(2) below.

842 (1) Project Water sales, transfers, and exchanges conducted under the
843 provisions of subdivision (f) of this Article of this Contract shall not require the Contracting Officer's
844 concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the Contractor
845 shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1) year, provide
846 ninety (90) days written advance notification to the Contracting Officer and similarly thirty (30) days
847 written advance notification of any Project Water sale, transfer, or exchange with a term of less than
848 one (1) year. The Contracting Officer shall promptly make such notice publicly available.

849 (2) The Contractor’s thirty (30) days or ninety (90) days advance written
850 notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain how the
851 proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or mitigate
852 impacts to Project Water deliveries caused by interim or restoration flows or is otherwise intended to
853 facilitate the Water Management Goal as described in the SJRRSA. The Contracting Officer shall
854 promptly make such notice publicly available.

855 (3) In addition, the Contracting Officer shall, at least annually, make
856 available publicly a compilation of the number of Project Water sales, transfers, and exchange
857 agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this
858 Contract.

859 (4) Project Water sold, transferred, or exchanged under an agreement that
860 meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be counted as
861 a replacement or an offset for purposes of determining reductions to Project Water deliveries to any
862 Friant Division Project Contractor except as provided in Paragraph 16(b) of the Settlement.

863 (g) Upon complete payment of the Repayment Obligation by the Contractor, and
864 notwithstanding any Additional Capital Obligation that may later be established, in the case of a sale
865 or transfer of Irrigation Water to another contractor which is otherwise subject to the acreage
866 limitations, reporting, and Full Cost pricing provisions of the RRA, such sold or transferred Irrigation
867 Water shall not be subject to such RRA provisions, however, in the case of a sale or transfer of
868 Irrigation Water to the Contractor from another contractor which is subject to RRA provisions, such
869 RRA provisions shall apply to delivery of such water.

870 APPLICATION OF PAYMENTS AND ADJUSTMENTS

871 11. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
872 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
873 the Contractor arising out of this Contract then due and payable. Overpayments of more than One
874 Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any
875 amount of such overpayment, at the option of the Contractor, may be credited against amounts to
876 become due to the United States by the Contractor. With respect to overpayment, such refund or
877 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have
878 the right to the use of any of the Project Water supply provided for herein. All credits and refunds of
879 overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as
880 to how to credit or refund such overpayment in response to the notice to the Contractor that it has
881 finalized the accounts for the Year in which the overpayment was made.

882 (b) All advances for miscellaneous costs incurred for work requested by the
883 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs when the
884 work has been completed. If the advances exceed the actual costs incurred, the difference will be
885 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will
886 be billed for the additional costs pursuant to Article 26 of this Contract.

887 TEMPORARY REDUCTIONS—RETURN FLOWS

888 12. (a) The Contracting Officer shall make all reasonable efforts to optimize delivery
889 of the Contract Total subject to: (i) the authorized purposes and priorities of the Project; (ii) the

890 requirements of Federal law and the Settlement; and (iii) the obligations of the United States under
891 existing contracts, or renewals thereof, providing for water deliveries from the Project.

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

903 (c) The United States reserves the right to all seepage and return flow water
904 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the
905 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States
906 any right as seepage or return flow to water being used pursuant to this Contract for surface irrigation
907 or underground storage either being put to reasonable and beneficial use pursuant to this Contract
908 within the Contractor's Service Area by the Contractor or those claiming by, through, or under the
909 Contractor. For purposes of this subdivision, groundwater recharge, groundwater banking and all
910 similar groundwater activities will be deemed to be underground storage.

911 CONSTRAINTS ON THE AVAILABILITY OF WATER

912 13. (a) In its operation of the Project, the Contracting Officer will use all reasonable
913 means to guard against a Condition of Shortage in the quantity of water to be made available to the
914 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition
915 of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination
916 as soon as practicable.

917 (b) If there is a Condition of Shortage because of errors in physical operations of
918 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
919 taken by the Contracting Officer to meet legal obligations, including but not limited to obligations
920 pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of this Contract,
921 no liability shall accrue against the United States or any of its officers, agents, or employees for any
922 damage, direct or indirect, arising therefrom.

923 (c) The United States shall not execute contracts which together with this
924 Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000 acre-feet
925 per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That, subject to
926 subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water contracts shall not
927 prohibit the United States from entering into temporary contracts of one year or less in duration for
928 delivery of Project Water to other entities if such water is not necessary to meet the schedules as may
929 be submitted by all Friant Division Project Contractors entitled to receive Class 1 Water and/or Class
930 2 Water under their contracts. Nothing in this subdivision shall limit the Contracting Officer's ability
931 to take actions that result in the availability of new water supplies to be used for Project purposes and

932 allocating such new supplies; Provided, That the Contracting Officer shall not take such actions until
933 after consultation with the Friant Division Project Contractors.

934 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to this or
935 any other contract heretofore or hereafter entered into any Year unless and until the Contracting
936 Officer determines that the cumulative total quantity of Class 1 Water specified in subdivision (c) of
937 this Article of this Contract will be available for delivery in said Year. If the Contracting Officer
938 determines there is or will be a shortage in any Year in the quantity of Class 1 Water available for
939 delivery, the Contracting Officer shall apportion the available Class 1 Water among all Contractors
940 entitled to receive such water that will be made available at Friant Dam in accordance with the
941 following:

942 (1) A determination shall be made of the total quantity of Class 1 Water at
943 Friant Dam which is available for meeting Class 1 Water contractual commitments, the amount so
944 determined being herein referred to as the available supply.

945 (2) The total available Class 1 supply shall be divided by the Class 1 Water
946 contractual commitments, the quotient thus obtained being herein referred to as the Class 1
947 apportionment coefficient.

948 (3) The total quantity of Class 1 Water under Article 3 of this Contract
949 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of
950 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the respective
951 Year, but in no event shall such amount exceed the total quantity of Class 1 Water specified in
952 subdivision (a) of Article 3 of this Contract.

953 (e) If the Contracting Officer determines there is less than the quantity of Class 2
954 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3 of this
955 Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the Contracting
956 Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of subdivision (d) of
957 this Article of this Contract substituting the term "Class 2" for the term "Class 1."

958 (f) In the event that in any Year there is made available to the Contractor, by
959 reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article of
960 this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of Article
961 12 of this Contract, less than the quantity of water which the Contractor otherwise would be entitled
962 to receive hereunder, there shall be made an adjustment on account of the amounts already paid to the
963 Contracting Officer by the Contractor for Class 1 Water and Class 2 Water for said Year in
964 accordance with Article 11 of this Contract.

965 UNAVOIDABLE GROUNDWATER PERCOLATION

966 14. To the extent applicable, the Contractor shall not be deemed to have delivered
967 Irrigation Water to Excess Lands and Ineligible Lands within the meaning of this Contract if such
968 lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of
969 the delivery of Irrigation Water by the Contractor to Eligible Lands.

970 ACREAGE LIMITATION

971 15. (a) Notwithstanding the application of the acreage limitation provisions to
972 activities referred to in subdivision (b) of this Article, subdivision (a) of Article 16, and Article 18 of
973 this Contract, upon complete payment of the Repayment Obligation by the Contractor, and

974 notwithstanding any Additional Capital Obligation that may later be established, the provisions of
975 section 213(a) and (b) of the RRA shall apply to lands in the Contractor's Service Area, with the
976 effect that acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer
977 apply to lands in the Contractor's Service Area with respect to Water Delivered pursuant to this
978 Contract. Upon receiving the complete payment of the Repayment Obligation from the Contractor,
979 Reclamation will conduct a final water district review for the purpose of determining compliance
980 with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA from the date of
981 the last water district review until the date when payment to Reclamation of the Repayment
982 Obligation is completed.

983 (b) Project Water to which the Contractor is entitled through a separate contract,
984 other than this Contract, that is subject to Federal Reclamation law, may be delivered to lands within
985 the Contractor's Service Area. Upon complete payment of the Repayment Obligation by the
986 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
987 Project Water Delivered under this Contract may be mixed with Project Water Delivered pursuant to
988 a contract with the United States, other than this Contract, to which acreage limitations, reporting,
989 and the Full Cost pricing provisions of Federal Reclamation law apply without causing the
990 application of the acreage limitations, reporting, and Full Cost pricing provisions of Federal
991 Reclamation law to the Water Delivered pursuant to this Contract; Provided, The terms and
992 conditions in such other contract shall continue to apply, and if such terms and conditions so require,
993 the lands to receive Project Water under such other contract shall be properly designated by the

994 Contractor and such Project Water is to be delivered in accordance with the RRA including any
995 applicable acreage limitations, reporting, and Full Cost pricing provisions.

996 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

997 16. (a) The parties agree that the delivery of irrigation water or use of Federal
998 facilities pursuant to this Contract is subject to Federal reclamation law, including but not limited to
999 the Reclamation Reform Act of 1982 (43 U.S.C. 390 aa *et seq.*), as amended and supplemented, and
1000 the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

1001 (b) The terms of this Contract are subject to the Settlement and the SJRRSA.

1002 Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of the
1003 Settlement and the SJRRSA.

1004 PROTECTION OF WATER AND AIR QUALITY

1005 17. (a) Project facilities used to make available and deliver water to the Contractor
1006 shall be operated and maintained in the most practical manner to maintain the quality of the water at
1007 the highest level possible as determined by the Contracting Officer: *Provided, That* the United States
1008 does not warrant the quality of the water delivered to the Contractor and is under no obligation to
1009 furnish or construct water treatment facilities to maintain or improve the quality of water delivered to
1010 the Contractor.

1011 (b) The Contractor shall comply with all applicable water and air pollution laws
1012 and regulations of the United States and the State of California; and shall obtain all required permits
1013 or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water
1014 by the Contractor; and shall be responsible for compliance with all Federal, State, and local water
1015 quality standards applicable to surface and subsurface drainage and/or discharges generated through
1016 the use of Federal or Contractor facilities or project water provided by the Contractor within the
1017 Contractor's Project Water Service Area.

1018 (c) This article shall not affect or alter any legal obligations of the Secretary to
1019 provide drainage or other discharge services.

1020 WATER ACQUIRED BY THE CONTRACTOR
1021 OTHER THAN FROM THE UNITED STATES

1022 18. (a) Until complete payment of the Repayment Obligation by the Contractor, and
1023 notwithstanding any Additional Capital Obligation that may later be established, water or water rights
1024 now owned or hereafter acquired by the Contractor other than from the United States and Irrigation
1025 Water furnished pursuant to the terms of this Contract may be simultaneously transported through the
1026 same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for
1027 commingling Irrigation Water and non-project water were constructed without funds made available
1028 pursuant to Federal Reclamation law, the acreage limitations, reporting, and Full Cost pricing
1029 provisions of Federal Reclamation law will be applicable only to the Landholders of lands which
1030 receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established
1031 through the certification requirements as specified in the Acreage Limitation Rules and Regulations
1032 (43 CFR Part 426); and (iii) the water requirements of Eligible Lands within the Contractor's Service
1033 Area can be established and the quantity of Irrigation Water to be utilized is less than or equal to the
1034 quantity necessary to irrigate such Eligible Lands. The Contractor and the Contracting Officer
1035 acknowledge that the Contractor's distribution system that was constructed with funds made
1036 available pursuant to Federal Reclamation law was, prior to effective date of this Contract, repaid in
1037 full and but title to the facilities has not been transferred to the Contractor. As such, when such
1038 facilities are utilized for commingling Irrigation Water and non-project water, the acreage limitations,
1039 reporting, and Full Cost pricing provisions of Federal Reclamation law will be applicable only to the
1040 Landholders of lands which receive Irrigation Water

1041 (b) Upon complete payment of the Repayment Obligation by the Contractor, and
1042 notwithstanding any Additional Capital Obligation that may later be established, water or water rights

1043 now owned or hereafter acquired by the Contractor other than from the United States pursuant to this
1044 Contract and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously
1045 transported through the same distribution facilities of the Contractor without the payment of fees to
1046 the United States and without application of Federal Reclamation law to Water Delivered pursuant to
1047 this Contract or to lands which receive Water Delivered to Contractor pursuant to this Contract.

1048 (c) Water or water rights now owned or hereafter acquired by the Contractor, other
1049 than from the United States or adverse to the Project or its contractors (i.e., non-project water), may
1050 be stored, conveyed and/or diverted through Project facilities, other than Friant Division Facilities,
1051 subject to the completion of appropriate environmental documentation, with the approval of the
1052 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
1053 necessary, consistent with the following provisions:

1054 (1) The Contractor may introduce non-project water into Project facilities
1055 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,
1056 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an
1057 appropriate rate as determined by the Contracting Officer. In addition, if electrical power is required
1058 to pump non-project water, the Contractor shall be responsible for obtaining the necessary power and
1059 paying the necessary charges therefor.

1060 (2) Delivery of such non-project water in and through Project facilities
1061 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as
1062 determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other
1063 Project Contractors; (iii) interfere with the delivery of contractual water entitlements to any other

1064 Project Contractors; (iv) interfere with the physical maintenance of the Project facilities; or (v) result
1065 in the United States incurring any liability or unreimbursed costs or expenses thereby.

1066 (3) Neither the United States nor the Operating Non-Federal Entity shall be
1067 responsible for control, care or distribution of the non-project water before it is introduced into or
1068 after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend
1069 and indemnify the United States and the Operating Non-Federal Entity, and their respective officers,
1070 agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting
1071 from Contractor's diversion or extraction of non-project water from any source.

1072 (4) Diversion of such non-project water into Project facilities shall be
1073 consistent with all applicable laws, and if involving groundwater, consistent with any groundwater
1074 management plan for the area from which it was extracted.

1075 (5) After Project purposes are met, as determined by the Contracting
1076 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of
1077 the facilities declared to be available by the Contracting Officer for conveyance and transportation of
1078 non-project water prior to any such remaining capacity being made available to non-project
1079 contractors.

1080 (d) Non-project water may be stored, conveyed and/or diverted through Friant
1081 Division Facilities, subject to the completion of appropriate environmental documentation and
1082 approval of the Contracting Officer without execution of a separate contract, consistent with
1083 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be appropriate
1084 by the Contracting Officer.

1085 OPINIONS AND DETERMINATIONS

1086 19. (a) Where the terms of this Contract provide for actions to be based upon the
1087 opinion or determination of either party to this Contract, said terms shall not be construed as
1088 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
1089 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve
1090 the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
1091 unreasonable opinion or determination. Each opinion or determination by either party shall be
1092 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect or
1093 alter the standard of judicial review applicable under Federal law to any opinion or determination
1094 implementing a specific provision of Federal law embodied in statute or regulation.

1095 (b) The Contracting Officer shall have the right to make determinations necessary
1096 to administer this Contract that are consistent with the provisions of this Contract, the laws of the
1097 United States and the State of California, and the rules and regulations promulgated by the Secretary.
1098 Such determinations shall be made in consultation with the Contractor to the extent reasonably
1099 practicable.

1100 COORDINATION AND COOPERATION

1101 20. (a) In order to further their mutual goals and objectives, the Contracting Officer
1102 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other
1103 affected Project Contractors, in order to improve the operation and management of the Project. The
1104 communication, coordination, and cooperation regarding operations and management shall include,
1105 but not limited to, any action which will or may materially affect the quantity or quality of Project

1106 Water supply, the allocation of Project Water supply, and Project financial matters including, but not
1107 limited to, budget issues. The communication, coordination, and cooperation provided for hereunder
1108 shall extend to all provisions of this Contract. Each party shall retain exclusive decision making
1109 authority for all actions, opinions, and determinations to be made by the respective party.

1110 (b) It is the intent of the Secretary to improve water supply reliability. To carry
1111 out this intent:

1112 (1) The Contracting Officer will, at the request of the Contractor, assist in
1113 the development of integrated resource management plans for the Contractor. Further, the
1114 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
1115 improve water supply, water quality, and reliability.

1116 (2) The Secretary will, as appropriate, pursue program and project
1117 implementation and authorization in coordination with Project Contractors to improve the water
1118 supply, water quality, and reliability of the Project for all Project purposes.

1119 (3) The Secretary will coordinate with Project Contractors and the State of
1120 California to seek improved water resource management.

1121 (4) The Secretary will coordinate actions of agencies within the
1122 Department of the Interior that may impact the availability of water for Project purposes.

1123 (5) The Contracting Officer shall periodically, but not less than annually,
1124 hold division level meetings to discuss Project operations, division level water management
1125 activities, and other issues as appropriate.

1126 (c) Without limiting the contractual obligations of the Contracting Officer
1127 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's
1128 ability to communicate, coordinate, and cooperate with the Contractor or other interested
1129 stakeholders or to make decisions in a timely fashion as needed to protect health, safety, physical
1130 integrity of structures or facilities, or the Contracting Officer's ability to comply with applicable
1131 laws.

1132 CHARGES FOR DELINQUENT PAYMENTS

1133 21. (a) The Contractor shall be subject to interest, administrative and penalty charges
1134 on delinquent installments or payments. When a payment is not received by the due date, the
1135 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
1136 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
1137 charge to cover additional costs of billing and processing the delinquent payment. When a payment
1138 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
1139 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
1140 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
1141 payment.

1142 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
1143 the Federal Register by the Department of the Treasury for application to overdue payments, or the
1144 interest rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation
1145 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due
1146 date and remain fixed for the duration of the delinquent period.

1147 (c) When a partial payment on a delinquent account is received, the amount
1148 received shall be applied, first to the penalty, second to the administrative charges, third to the
1149 accrued interest, and finally to the overdue payment.

1150 EQUAL EMPLOYMENT OPPORTUNITY

1151 22. During the performance of this Contract, the Contractor agrees as follows:

1152 (a) The Contractor will not discriminate against any employee or applicant for
1153 employment because of race, color, religion, sex, disability, or national origin. The Contractor will
1154 take affirmative action to ensure that applicants are employed, and that employees are treated during
1155 employment, without regard to their race, color, religion, sex, disability, or national origin. Such

1156 action shall include, but not be limited to the following: employment, upgrading, demotion, or
1157 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of
1158 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
1159 conspicuous places, available to employees and applicants for employment, notices to be provided by
1160 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

1161 (b) The Contractor will, in all solicitations or advertisements for employees placed by
1162 or on behalf of the Contractor, state that all qualified applicants will receive consideration for
1163 employment without regard to race, color, religion, sex, disability, or national origin.

1164 (c) The Contractor will send to each labor union or representative of workers with
1165 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
1166 provided by the Contracting Officer, advising the labor union or workers' representative of the
1167 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
1168 shall post copies of the notice in conspicuous places available to employees and applicants for
1169 employment.

1170 (d) The Contractor will comply with all provisions of Executive Order No. 11246 of
1171 September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

1172 (e) The Contractor will furnish all information and reports required by Executive
1173 Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of
1174 Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the
1175 Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance
1176 with such rules, regulations, and orders.

1177 (f) In the event of the Contractor's noncompliance with the nondiscrimination clauses
1178 of this contract or with any of such rules, regulations, or orders, this contract may be canceled,
1179 terminated or suspended in whole or in part and the Contractor may be declared ineligible for further
1180 Government contracts in accordance with procedures authorized in Executive Order 11246 of
1181 September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in
1182 Executive Order 11246 of September 24, 1965 or by rule, regulation, or order of the Secretary of
1183 Labor, or as otherwise provided by law.

1184 (g) The Contractor will include the provisions of paragraphs (1) through (7) in every
1185 subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of
1186 Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such
1187 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
1188 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
1189 means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that
1190 in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor

1191 or vendor as a result of such direction, the Contractor may request the United States to enter into such
1192 litigation to protect the interests of the United States.

1193 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

1194 23. (a) The obligation of the Contractor to pay the United States as provided in this
1195 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation
1196 may be distributed among the Contractor's water users and notwithstanding the default of individual
1197 water users in their obligations to the Contractor.

1198 (b) The payment of charges becoming due hereunder is a condition precedent to
1199 receiving benefits under this Contract. The United States shall not make water available to the
1200 Contractor through Project facilities during any period in which the Contractor may be in arrears in
1201 the advance payment of water rates due the United States. The Contractor shall not furnish water
1202 made available pursuant to this Contract for lands or parties which are in arrears in the advance
1203 payment of water rates levied or established by the Contractor.

1204 (c) With respect to subdivision (b) of this Article of this Contract, the Contractor
1205 shall have no obligation to require advance payment for water rates which it levies.

1206 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1207 24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42
1208 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
1209 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as
1210 well as with their respective implementing regulations and guidelines imposed by the U.S.
1211 Department of the Interior and/or Bureau of Reclamation.

1212 (b) These statutes require that no person in the United States shall, on the grounds
1213 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the
1214 benefits of, or be otherwise subjected to discrimination under any program or activity receiving
1215 financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor
1216 agrees to immediately take any measures necessary to implement this obligation, including permitting
1217 officials of the United States to inspect premises, programs, and documents.

1218 (c) The Contractor makes this agreement in consideration of and for the purpose
1219 of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
1220 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including
1221 installment payments after such date on account of arrangements for Federal financial assistance
1222 which were approved before such date. The Contractor recognizes and agrees that such Federal

1223 assistance will be extended in reliance on the representations and agreements made in this Article,
1224 and that the United States reserves the right to seek judicial enforcement thereof.

1225 PRIVACY ACT COMPLIANCE

1226 25. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the
1227 Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et seq.) in
1228 maintaining Landholder acreage certification and reporting records, required to be submitted to the
1229 Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982 (96
1230 Stat. 1266), and pursuant to 43 CFR 426.18.

1231 (b) With respect to the application and administration of the criminal penalty
1232 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible
1233 for maintaining the certification and reporting records referenced in (a) above are considered to be
1234 employees of the Department of the Interior. See 5 U.S.C. 552a(m).

1235 (c) The Contracting Officer or a designated representative shall provide the
1236 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of
1237 Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--Interior,
1238 Reclamation-31) which govern the maintenance, safeguarding, and disclosure of information
1239 contained in the Landholder's certification and reporting records.

1240 (d) The Contracting Officer shall designate a full-time employee of the Bureau of
1241 Reclamation to be the System Manager who shall be responsible for making decisions on denials
1242 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is
1243 authorized to grant requests by individuals for access to their own records.

1244 (e) The Contractor shall forward promptly to the System Manager each proposed
1245 denial of access under 43 CFR 2.64; and each request for amendment of records filed under
1246 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with
1247 information and records necessary to prepare an appropriate response to the requester. These
1248 requirements do not apply to individuals seeking access to their own certification and reporting forms
1249 filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy
1250 Act as a basis for the request.

1251 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1252 26. In addition to all other payments to be made by the Contractor pursuant to this
1253 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill
1254 and detailed statement submitted by the Contracting Officer to the Contractor for such specific items

1255 of direct cost incurred by the United States for work requested by the Contractor associated with this
1256 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
1257 procedures. All such amounts referred to in this Article of this Contract shall not exceed the amount
1258 agreed to in writing in advance by the Contractor. This Article of this Contract shall not apply to
1259 costs for routine contract administration.

1260 WATER CONSERVATION

1261 27. (a) Prior to the delivery of water provided from or conveyed through Federally
1262 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
1263 implementing an effective water conservation and efficiency program based on the Contractor's water
1264 conservation plan that has been determined by the Contracting Officer to meet the conservation and
1265 efficiency criteria for evaluating water conservation plans established under Federal law. The water
1266 conservation and efficiency program shall contain definite water conservation objectives, appropriate
1267 economically feasible water conservation measures, and time schedules for meeting those objectives.
1268 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
1269 continued implementation of such water conservation program. In the event the Contractor's water
1270 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
1271 this Article of this Contract have not yet been determined by the Contracting Officer to meet such
1272 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the
1273 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently
1274 works with the Contracting Officer to obtain such determination at the earliest practicable date, and

1275 thereafter the Contractor immediately begins implementing its water conservation and efficiency
1276 program in accordance with the time schedules therein.

1277 (b) Should the amount of M&I Water Delivered pursuant to subdivision (a) of
1278 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the Contractor
1279 shall implement the Best Management Practices identified by the time frames issued by the
1280 California Urban Water Conservation Council for such M&I Water unless any such practice is
1281 determined by the Contracting Officer to be inappropriate for the Contractor.

1282 (c) The Contractor shall submit to the Contracting Officer a report on the status of
1283 its implementation of the water conservation plan on the reporting dates specified in the then-existing
1284 conservation and efficiency criteria established under Federal law.

1285 (d) At five (5) -year intervals, the Contractor shall revise its water conservation
1286 plan to reflect the then-existing conservation and efficiency criteria for evaluating water conservation
1287 plans established under Federal law and submit such revised water management plan to the
1288 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the
1289 water conservation plan meets Reclamation's then-existing conservation and efficiency criteria for
1290 evaluating water conservation plans established under Federal law.

1291 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall
1292 be described in the Contractor's water conservation plan.

1293 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1294 28. Except as specifically provided in Article 18 of this Contract, the provisions of this
1295 Contract shall not be applicable to or affect non-project Water or water rights now owned or hereafter

1296 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such
1297 water shall not be considered Project Water under this Contract. In addition, this Contract shall not
1298 be construed as limiting or curtailing any rights which the Contractor or any water user within the
1299 Contractor's Service Area acquires or has available under any other contract pursuant to Federal
1300 Reclamation law.

1301 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1302 29. (a) The O&M of a portion of the Project facilities which serve the Contractor, and
1303 responsibility for funding a portion of the costs of such O& M, have been transferred to the Operating
1304 Non-Federal Entity by separate agreement between the United States and the Operating Non-Federal
1305 Entity. That separate agreement shall not interfere with or affect the rights or obligations of the
1306 Contractor or the United States hereunder.

1307 (b) The Contracting Officer has previously notified the Contractor in writing that
1308 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the
1309 Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating Non-
1310 Federal Entity, or to any successor approved by the Contracting Officer under the terms and
1311 conditions of the separate agreement between the United States and the Operating Non-Federal Entity
1312 described in subdivision (a) of this Article of this Contract, all rates, charges or assessments of any
1313 kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such
1314 successor determines, sets or establishes for (i) the O&M of the portion of the Project facilities
1315 operated and maintained by the Operating Non-Federal Entity or such successor, or (ii) the Friant
1316 Division's share of the operation, maintenance and replacement costs for physical works and

1317 appurtenances associated with the Tracy Pumping Plant, the Delta-Mendota Canal, the O'Neill
1318 Pumping/Generating Plant, the federal share of the O'Neill Forebay, the Mendota Pool, and the
1319 federal share of San Luis Unit joint use conveyance and conveyance pumping facilities. Such direct
1320 payments to the Operating Non-Federal Entity or such successor shall not relieve the Contractor of its
1321 obligation to pay directly to the United States the Contractor's share of the Project Rates, Charges,
1322 and Tiered Pricing Components except to the extent the Operating Non-Federal Entity collects
1323 payments on behalf of the United States in accordance with the separate agreement identified in
1324 subdivision (a) of this Article of this Contract.

1325 (c) For so long as the O&M of any portion of the Project facilities serving the
1326 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1327 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1328 Contract representing the cost associated with the activity being performed by the Operating Non-
1329 Federal Entity or its successor.

1330 (d) In the event the O&M of the Project facilities operated and maintained by the
1331 Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the
1332 Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a revised
1333 Exhibit "B" which shall include the portion of the Rates to be paid by the Contractor for Project
1334 Water under this Contract representing the O &M costs of the portion of such Project facilities which
1335 have been re-assumed. The Contractor shall, thereafter, in the absence of written notification from
1336 the Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component(s)

1337 specified in the revised Exhibit “B” directly to the United States in compliance with Article 7 of this
1338 Contract.

1339 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1340 30. The expenditure or advance of any money or the performance of any obligation of the
1341 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1342 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1343 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1344 or allotted.

1345 BOOKS, RECORDS, AND REPORTS

1346 31. (a) The Contractor shall establish and maintain accounts and other books and
1347 records pertaining to administration of the terms and conditions of this Contract, including: the
1348 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
1349 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other
1350 matters that the Contracting Officer may require. Reports thereon shall be furnished to the
1351 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
1352 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right
1353 during office hours to examine and make copies of the other party's books and records relating to
1354 matters covered by this Contract.

1355 (b) Notwithstanding the provisions of subdivision (a) of this Article of this
1356 Contract, no books, records, or other information shall be requested from the Contractor by the
1357 Contracting Officer unless such books, records, or information are reasonably related to the
1358 administration or performance of this Contract. Any such request shall allow the Contractor a
1359 reasonable period of time within which to provide the requested books, records, or information.

1360 (c) At such time as the Contractor provides information to the Contracting Officer
1361 pursuant to subdivision (a) of this Article of this Contract, a copy of such information shall be
1362 provided to the Operating Non-Federal Entity.

1363 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1364 32. (a) The provisions of this Contract shall apply to and bind the successors and
1365 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1366 therein shall be valid until approved in writing by the Contracting Officer.

1367 (b) The assignment of any right or interest in this Contract by either party shall not
1368 interfere with the rights or obligations of the other party to this Contract absent the written
1369 concurrence of said other party.

1370 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1371 of any proposed assignment.

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1373

SEVERABILITY

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33. In the event that a person or entity who is neither (i) a party to a Project contract, nor

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(ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an

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association or other form of organization whose primary function is to represent parties to Project

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contracts, brings an action in a court of competent jurisdiction challenging the legality or

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enforceability of a provision included in this Contract and said person, entity, association, or

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organization obtains a final court decision holding that such provision is legally invalid or

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unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the

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parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final

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court decision identify by mutual agreement the provisions in this Contract which must be revised

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and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time

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periods specified above may be extended by mutual agreement of the parties. Pending the

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completion of the actions designated above, to the extent it can do so without violating any applicable

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provisions of law, the United States shall continue to make the quantities of Project Water specified

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in this Contract available to the Contractor pursuant to the provisions of this Contract which were not

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found to be legally invalid or unenforceable in the final court decision.

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RESOLUTION OF DISPUTES

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34. Should any dispute arise concerning any provisions of this Contract, or the parties'

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rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the

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dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring

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any matter to Department of Justice, the party shall provide to the other party thirty (30) days written

1394 notice of the intent to take such action; Provided, That such notice shall not be required where a delay
1395 in commencing an action would prejudice the interests of the party that intends to file suit. During
1396 the thirty (30) day notice period, the Contractor and the Contracting Officer shall meet and confer in
1397 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
1398 waive or abridge any right or remedy that the Contractor or the United States may have.

1399 OFFICIALS NOT TO BENEFIT

1400 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1401 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1402 manner as other water users or landowners.

1403 CHANGES IN CONTRACTOR'S SERVICE AREA

1404 36. (a) While this Contract is in effect, no change may be made in the Contractor's
1405 Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or
1406 otherwise, except upon the Contracting Officer's written consent.

1407 (b) Within thirty (30) days of receipt of a request for such a change, the
1408 Contracting Officer will notify the Contractor of any additional information required by the
1409 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1410 agreeable schedule for timely completion of the process. Such process will analyze whether the
1411 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1412 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1413 Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible;
1414 and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition,
1415 the Contracting Officer shall comply with the National Environmental Policy Act and the Endangered

1416 Species Act. The Contractor will be responsible for all costs incurred by the Contracting Officer in
1417 this process, and such costs will be paid in accordance with Article 26 of this Contract.

1418 FEDERAL LAWS

1419 37. By entering into this Contract, the Contractor does not waive its rights to contest the
1420 validity or application in connection with the performance of the terms and conditions of this
1421 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
1422 terms and conditions of this Contract unless and until relief from application of such Federal law or
1423 regulation to the implementing provision of the Contract is granted by a court of competent
1424 jurisdiction.

1425 EMERGENCY RESERVE FUND

1426 38. The Contractor and Contracting Officer acknowledge that the requirements to
1427 establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of
1428 Friant Division Facilities is and will continue to be administered under Contract No. 8-07-20-X0356
1429 titled Agreement To Transfer The Operation, Maintenance And Replacement And Certain Financial
1430 And Administrative Activities Related To The Friant-Kern Canal And Associated Works, dated
1431 March 1, 1998 as amended, supplemented, assigned, or renewed.

1432 MEDIUM FOR TRANSMITTING PAYMENT

1433 39. (a) All payments from the Contractor to the United States under this contract
1434 shall be by the medium requested by the United States on or before the date payment is due. The
1435 required method of payment may include checks, wire transfers, or other types of payment specified
1436 by the United States.

1437 (b) Upon execution of the contract, the Contractor shall furnish the Contracting
1438 Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the

1439 Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the
1440 Contractor's relationship with the United States.

1441 NOTICES

1442 40. Any notice, demand, or request authorized or required by this Contract shall be
1443 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1444 to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California
1445 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
1446 Directors of Lindmore Irrigation District, P.O. Box 908, Lindsay, California 93247. The designation
1447 of the addressee or the address may be changed by notice given in the same manner as provided in
1448 this Article of this Contract for other notices.

1449 CONFIRMATION OF CONTRACT

1450 41. The Contractor, after the execution of this Contract, shall promptly provide to the
1451 Contracting Officer a decree of a court of competent jurisdiction of the State of California,
1452 confirming the execution of this Contract. The Contractor shall furnish the United States a certified
1453 copy of the final decree, the validation proceedings, and all pertinent supporting records of the court
1454 approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and
1455 binding on the Contractor.

1456 CONTRACT DRAFTING CONSIDERATIONS

1457 42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20,
1458 subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31,
1459 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and
1460 Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the parties
1461 hereto, each of whom is sophisticated in the matters to which this Contract pertains, and no one party
1462 shall be considered to have drafted the stated Articles.
1463

1464 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1465 year first above written.

THE UNITED STATES OF AMERICA

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

LINDMORE IRRIGATION DISTRICT

By: _____
TITLE OF AUTHORIZED SIGNATORY

Attest:

By: _____
TITLE

EXHIBIT A

Map or Description of Service Area

EXHIBIT B
LINDMORE IRRIGATION DISTRICT
2010 Rates and Charges
(Per Acre-Foot)

	Irrigation	Irrigation	M&I ¹
	Water	Water	Water
	Class 1	Class 2	
COST-OF-SERVICE (COS) RATES			
O&M Components			
Water Marketing	\$6.01	\$6.01	
Storage	\$6.57		
Conveyance ²			
TOTAL COS (Tier 1 Rate)	\$12.58	\$6.01	
IRRIGATION FULL-COST RATE (RRA)			
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$34.23	\$14.62	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$40.03	\$18.49	
TIERED PRICING COMPONENTS (In Addition to Total COS Rate Above)			
Irrigation			
<i>Tier 2 Rate</i> : >80% <=90% of Contract Total [Section 202(3) Irrigation Full-Cost Rate - COS Rate]/2 (Amount to be added to Tier 1 Rate)	\$10.83	\$4.31	
<i>Tier 3 Rate</i> : >90% of Contract Total [Section 202(3) Irrigation Full-Cost Rate - COS Rate] (Amount to be added to Tier 1 Rate)	\$21.65	\$8.61	
CHARGES AND ASSESSMENTS (Payments in addition to Rates)			
P.L. 102-575 Surcharges ³			
Restoration Fund Payments [Section 3407(d)(2)(A)]	\$9.11	\$9.11	
Friant Surcharge [Section 3406(c)(1)]	\$7.00	\$7.00	
P.L. 106-377 Assessment (Trinity Public Utilities District) ⁴ [Appendix B, Section 203]	\$0.11	\$0.11	

EXHIBIT B
LINDMORE IRRIGATION DISTRICT
2010 Rates and Charges
(Per Acre-Foot)

EXPLANATORY NOTES

- 1 The Contractor has not projected any delivery of M&I Water for the 2010 contract year. A temporary M&I rate will be applied upon any M&I water delivery.
- 2 Conveyance and Conveyance Pumping operation and maintenance costs were removed for ratesetting purposes and are to be direct billed.
- 3 The surcharges were determined pursuant to Title XXXIV of P.L. 102-575. Restoration Fund surcharges under P.L. 102-575 are determined on a fiscal year basis (10/1-9/30).
- 4 The Trinity Public Utilities District Assessment is applicable to each acre-foot of water delivered from 3/1/2010-2/28/2011 and is adjusted annually.

Additional detail of rate components is available on the Internet at

<http://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>

Exhibit C-1

Repayment Obligation - Lump Sum Option

Friant Contractor:

Lindmore ID

San Joaquin River Restoration Act

Existing Capital Obligation (Article 1(m))	\$ 8,413,353.09
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Irrigation portion of Existing Capital Obligation	\$ 8,413,353.09
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20yr CMT as of : **10/01/10** **4.050%**

Discount Rate (1/2 20yr CMT) **2.025%**

Discounted Irrigation Capital	\$ 6,861,953.04
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Non-Discounted M&I Portion of
Existing Capital Obligation

\$ -

Repayment Obligation - Lump Sum Option (per Article 7(a)(2)(A))	
	\$ 6,861,953.04

Year	Irrigation Portion of Allocated Capital Cost	
	Beginning Balance	Straight Line Repayment
	2011	\$ 8,413,353
2012	\$ 7,992,685	\$ 420,668
2013	\$ 7,572,018	\$ 420,668
2014	\$ 7,151,350	\$ 420,668
2015	\$ 6,730,682	\$ 420,668
2016	\$ 6,310,015	\$ 420,668
2017	\$ 5,889,347	\$ 420,668
2018	\$ 5,468,680	\$ 420,668
2019	\$ 5,048,012	\$ 420,668
2020	\$ 4,627,344	\$ 420,668
2021	\$ 4,206,677	\$ 420,668
2022	\$ 3,786,009	\$ 420,668
2023	\$ 3,365,341	\$ 420,668
2024	\$ 2,944,674	\$ 420,668
2025	\$ 2,524,006	\$ 420,668
2026	\$ 2,103,338	\$ 420,668
2027	\$ 1,682,671	\$ 420,668
2028	\$ 1,262,003	\$ 420,668
2029	\$ 841,335	\$ 420,668
2030	\$ 420,668	\$ 420,668
		\$ 8,413,353

Exhibit C-2

Repayment Obligation - Installment Payment Option

Prinant Contractor: Lindmore ID

Existing Capital Obligation (Article 1(m))	\$ 8,413,353.09
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Irrigation Portion of Existing Capital Obligation	\$ 8,413,353.09
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20yr CMT - 10/1/2010	4.050%
Discount Rate (1/2 20yr CMT)	2.025%

Non-Discounted M&I Existing Capital Obligation	\$ -
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Installment Schedule

	Payment Due Date	Irrigation Portion of Repayment Obligation	Non-discounted M&I Portion of Existing Capital Obligation	Repayment Obligation
1st Installment	5/1/2011	\$ 1,766,741.52	\$ -	\$ 1,766,741.52
2nd Installment	5/1/2012	\$ 1,765,941.11	\$ -	\$ 1,765,941.11
3rd Installment	5/1/2013	\$ 1,767,206.86	\$ -	\$ 1,767,206.86
4th Installment	1/31/2014	\$ 1,769,877.32	\$ -	\$ 1,769,877.32
Total Repayment Obligation - Installment Option (per Article 7(a)(2)(A)):		\$ 7,069,766.81	\$ -	\$ 7,069,766.81

Year	Irrigation Portion of Allocated Capital Cost		Discounted Capital Amount			
	Beginning Balance	Straight Line Repayment	\$1,766,741.52	\$1,765,941.11	\$1,767,206.86	\$1,769,877.32
2011	\$ 8,413,353	\$ 420,668	\$ 420,668			
2012	\$ 7,992,685	\$ 420,668	\$ 88,340	\$ 332,327		
2013	\$ 7,572,018	\$ 420,668	\$ 88,340	\$ 98,226	\$ 234,102	
2014	\$ 7,151,350	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2015	\$ 6,730,682	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2016	\$ 6,310,015	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2017	\$ 5,889,347	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2018	\$ 5,468,680	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2019	\$ 5,048,012	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2020	\$ 4,627,344	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2021	\$ 4,206,677	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2022	\$ 3,786,009	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2023	\$ 3,365,341	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2024	\$ 2,944,674	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2025	\$ 2,524,006	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2026	\$ 2,103,338	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2027	\$ 1,682,671	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2028	\$ 1,262,003	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2029	\$ 841,335	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
2030	\$ 420,668	\$ 420,668	\$ 88,340	\$ 98,226	\$ 110,005	\$ 124,097
	\$ 8,413,353	\$ 8,413,353	\$ 2,099,132	\$ 2,100,394	\$ 2,104,180	\$ 2,109,648

Exhibit D

Friant Surcharge Reduction Calculation

**Friant Contractor:
San Joaquin River Restoration Act**

Lindmore ID

Average Annual Delivery - Forecasted for 2020-2039*	31,130
Total Projected deliveries (over 20 yr period)**	
Article 7(c)	622,600
20 yr CMT as of 10/1/2010	4.050%
1/2 20 yr CMT as of 10/1/2010	2.025%
Irrigation Portion of Existing Capital Obligation	\$8,413,353
NPV at Half CMT (Repayment Obligation)	\$6,861,953
NPV at Full CMT	\$5,691,782
Financing Cost Offset: @ (Article 7(c)(1))	\$1,170,171
NPV of FS Reduction	\$883,956
Difference between Financing Cost Offset and NPV of FS Reduction	\$286,215
2020 Other Obligation Credit (FV of difference (Art. 7(c)(2)))***	\$409,139

Year	Irrigation portion of Allocated Capital Cost			CVPIA Friant	Reduction in Friant Surcharge			
	Beginning Balance	Straight Line Repayment		Surcharges	Friant Surcharge Reduction per Article c(1)	Friant Surcharge due per A/F after Reduction	Projected Total Annual Credit	2020 Other Obligation Credit Calculation (Art. 7(c)(2))
2011	\$ 8,413,353	\$ 420,668		\$7.00		\$7.00	0	\$ 286,214.76
2012	\$ 7,992,685	\$ 420,668		\$7.00		\$7.00	0	\$ 297,806.46
2013	\$ 7,572,018	\$ 420,668		\$7.00		\$7.00	0	\$ 309,867.62
2014	\$ 7,151,350	\$ 420,668		\$7.00		\$7.00	0	\$ 322,417.26
2015	\$ 6,730,682	\$ 420,668		\$7.00		\$7.00	0	\$ 335,475.16
2016	\$ 6,310,015	\$ 420,668		\$7.00		\$7.00	0	\$ 349,061.91
2017	\$ 5,889,347	\$ 420,668		\$7.00		\$7.00	0	\$ 363,198.91
2018	\$ 5,468,680	\$ 420,668		\$7.00		\$7.00	0	\$ 377,908.47
2019	\$ 5,048,012	\$ 420,668		\$7.00		\$7.00	0	\$ 393,213.76
2020	\$ 4,627,344	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(\$93,390)	\$ 409,138.92
2021	\$ 4,206,677	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2022	\$ 3,786,009	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2023	\$ 3,365,341	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2024	\$ 2,944,674	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2025	\$ 2,524,006	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2026	\$ 2,103,338	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2027	\$ 1,682,671	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2028	\$ 1,262,003	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2029	\$ 841,335	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2030	\$ 420,668	\$ 420,668		\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2031				\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2032				\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2033				\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2034				\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2035				\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2036				\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2037				\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2038				\$7.00	(\$3.00)	\$ 4.00	(93,390)	
2039				\$7.00	(\$3.00)	\$ 4.00	(93,390)	
		\$ 8,413,353						(\$1,867,800)

Exhibit D

Friant Surcharge Reduction Calculation

Footnotes

* Average annual delivery forecast indicated above is a mutually agreed upon estimate of deliveries during the period 2020-2039 for purposes of calculating the Friant Surcharge reduction and related credits only.

** This figure represents the total cumulative deliveries the reduced surcharge is applicable to, but not beyond 2039. If cumulative actual deliveries exceed this amount prior to 2039, the full Friant Surcharge is applicable to deliveries in excess of this amount.

*** The difference represents the amount of financing costs that are not offset through the reduced Friant Surcharge computed on this schedule. Pursuant to Section 7(c)(2), this amount shall offset the Contractor's other outstanding or future obligations. After 2020, the contractor's other obligations shall be reduced in the following order to fully offset this amount: 1) Payments or prepayments due for O&M expenses and, to the extent applicable, 2) Additional Capital Obligation.

@ Amount of reduction in Friant Surcharge is computed using FPV of Financing Costs adjusted to Yr 2020. Annual Friant Surcharge reduction to fully offset Financing costs is computed and presented on per a/f basis. Friant surcharge may be reduced up to \$3 per a/f.

Friant Surcharge (FS) Reduction Calculations

FV of Total Financing Cost for Offset	\$	1,740,485
Annual Credit Target	\$	(123,629)
FS Reduction w/o limit	\$	(3.97)
FS Reduction limit	\$	(3.00)

EXHIBIT E

Restated Contract¹

Irrigation and M&I

Contract No. I75r-1635D

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

CONTRACT BETWEEN THE UNITED STATES
AND
LINDMORE IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE FROM
FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

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14	Omitted	
15	Acreage Limitation	

¹ Pursuant to subdivision (b) of Article 2 of the Contract to which this exhibit is attached, this Exhibit "E" makes no substantive revisions to the Contract to which it is attached and is prepared solely as a matter of administrative convenience. In this Exhibit "E", references to "Contract" or "this Contract" refers to this Restated Contract.

16	Compliance With Federal Reclamation Laws
17	Protection of Water and Air Quality
18	Water Acquired By the Contractor Other Than From the United States
19	Opinions and Determinations
20	Coordination and Cooperation
21	Charges for Delinquent Payments
22	Equal Employment Opportunity
23	General Obligation--Benefits Conditioned Upon Payment
24	Compliance with Civil Rights Laws and Regulations
25	Omitted
26	Contractor to Pay Certain Miscellaneous Costs
27	Water Conservation
28	Existing or Acquired Water or Water Rights
29	Operation and Maintenance by Operating Non-Federal Entity
30	Contingent on Appropriation or Allotment of Funds
31	Books, Records, and Reports
32	Assignment Limited--Successors and Assigns Obligated
33	Severability
34	Resolution of Disputes
35	Officials Not to Benefit
36	Changes in Contractor's Service Area
37	Federal Laws
38	Emergency Reserve Fund
39	Medium for Transmitting Payment
40	Notices
41	Confirmation of Contract
42	Contract Drafting Considerations

Signature Page

Exhibit A	Contractor's Map or Description of Service Area
Exhibit B	Rates and Charges
Exhibit C-1	Repayment Schedule – Lump Sum Option
Exhibit C-2	Repayment Schedule – Installment Option
Exhibit D	Computation of the Friant Surcharge
Exhibit E	Omitted

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

5 CONTRACT BETWEEN THE UNITED STATES
6 AND
7 LINDMORE IRRIGATION DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM FRIANT DIVISION AND
10 FACILITIES REPAYMENT

11 THIS CONTRACT, made this _____ day of _____, 2010, is entered into
12 pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary thereto,
13 including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
15 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat.
16 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and Title X,
17 Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San Joaquin River
18 Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively hereinafter referred to
19 as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to
20 as the United States and LINDMORE IRRIGATION DISTRICT, hereinafter referred to as the
21 Contractor, a public agency of the State of California, duly organized, existing, and acting pursuant to
22 the laws thereof, with its principal place of business in California;

23 WITNESSETH, That

24 EXPLANATORY RECITALS

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

31 [2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton
32 Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant
33 Division Facilities, which will be used in part for the furnishing of water to the Contractor pursuant to
34 the terms of this Contract; and

35 [3rd] WHEREAS, the United States and the Contractor entered into Contract Number I75r-
36 1635, as amended, which established terms for the delivery to the Contractor of Project Water from
37 the Friant Division from May 19, 1950 through February 28, 1990; and

38 [4th] WHEREAS, the Contractor and the United States have entered into a renewal contract
39 and, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA),
40 subsequently entered into an interim renewal contract(s) identified as Contract Number (s) I75r-
41 1635R and I75r-1635-IR1, which provided for the continued water service to Contractor from March
42 1, 1990 through February 28, 2001, and subsequently entered into a long-term renewal contract
43 identified as Contract Number I75r-1635-LTR1, which provided for continued water service to

44 Contractor through February 28, 2026, which was amended January 18, 2007, and is herein referred
45 to as the "Existing Contract"; and

46 [5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
47 United States has acquired water rights and other rights to the flows of the San Joaquin River,
48 including without limitation the permits issued as the result of Decision 935 by the California State
49 Water Resource Control Board and the contracts described in subdivision (n) of Article 3 of this
50 Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers Project
51 Water stored or flowing through Millerton Lake in accordance with State and Federal law for the
52 benefit of Project Contractors in the Friant Division and for other specified Project purposes; and

53 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project
54 Water developed through the exercise of the rights described in the fifth (5th) Explanatory Recital of
55 this Contract; and

56 [7th] WHEREAS, as a result of litigation entitled "Natural Resources Defense Council, et
57 al. v Kirk Rogers, et al." No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant Division
58 entered into a Stipulation of Settlement dated September 13, 2006, (the "Settlement"), which
59 settlement prescribes a Restoration Goal and a Water Management Goal and which Settlement was
60 subsequently confirmed and implemented through the SJRRSA; and

61 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the Existing
62 Contract to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, no
63 later than December 31, 2010, and further directs that such contract shall require the accelerated
64 repayment of the Contractors' allocated share of construction costs, either as a lump sum payment by

65 January 31, 2011 or in annual installments by January 31, 2014, which funds will in turn be made
66 available for implementation of the Settlement and SJRRSA, and which costs otherwise would have
67 been payable through annual water rates, with full repayment by 2030; and

68 [9th] WHEREAS, such repayment of costs will assist the United States with
69 implementation of actions required under the Settlement and the SJRRSA and provide the Contractor
70 the benefits provided in Section 10010 of the SJRRSA; and

71 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act) directs
72 the Secretary to provide that the other party to any contract entered into pursuant to subsection (d) of
73 Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to subsection (e) of Section 9
74 of the Act of August 4, 1939 (water service contract) shall “have the first right (to which the rights of
75 the holders of any other type of irrigation water contract shall be subordinate) to a stated share or
76 quantity of the project’s available water supply for beneficial use on the irrigable lands within the
77 boundaries of, or owned by, the party and a permanent right to such share or quantity upon
78 completion of payment of the amount assigned for ultimate return” by the contractor subject to
79 fulfillment of all obligations under the contract; and

80 [11th] WHEREAS, among other things, this Contract includes provisions granting the
81 Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

82 [12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
83 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
84 beneficial use and/or has demonstrated projected future demand for water use such that the

85 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the quantity
86 of Project Water to be made available to it pursuant to this Contract; and

87 [13th] WHEREAS, water obtained from the Central Valley Project has been relied upon by
88 urban and agricultural areas within California for more than fifty (50) years and is considered by the
89 Contractor as an essential portion of its water supply; and

90 [14th] WHEREAS, the economies of regions within the Central Valley Project, including the
91 Contractor's, depend upon the continued availability of water, including water service from the
92 Central Valley Project; and

93 [15th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
94 to pursue measures to improve water supply, water quality, and reliability of the Project for all
95 Project purposes; and

96 [16th] WHEREAS, the mutual goals of the United States and the Contractor include: to
97 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment of
98 the Central Valley Project as required by law; to guard reasonably against Project Water shortages; to
99 achieve a reasonable balance among competing demands for use of Project Water; and to comply
100 with all applicable environmental statutes, all consistent with the legal obligations of the United
101 States relative to the Central Valley Project; and

102 [17th] WHEREAS, any time during the Year the Contracting Officer determines that a need
103 exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to meet flood
104 control criteria (currently referred to as "uncontrolled season"), taking into consideration, among
105 other things, anticipated upstream reservoir operations and the most probable forecast of snowmelt

106 and runoff projections for the upper San Joaquin River, Friant Division Project Contractors utilize a
107 portion of their undependable Class 2 Water in their service areas to, among other things, assist in the
108 management and alleviation of groundwater overdraft in the Friant Division service area, provide
109 opportunities for restoration of the San Joaquin River below Friant Dam, minimize flooding along the
110 San Joaquin River, encourage optimal water management, and maximize the reasonable and
111 beneficial use of the water; and

112 [18th] WHEREAS, the parties desire and intend that this Contract not provide a disincentive
113 to the Friant Division Project Contractors continuing to carry out the beneficial activities set out in
114 the Explanatory Recital immediately above; and

115 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
116 its obligations under the Existing Contract.

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

119 DEFINITIONS

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

122 (a) “Additional Capital Obligation” shall mean any additional construction costs
123 or other capitalized costs incurred after the effective date of this Contract or not reflected in the
124 Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any amounts
125 payable by Contractor as determined through the final adjustment described and required by Section
126 10010(b) of the SJRRSA;

127 (b) "Calendar Year" shall mean the period January 1 through December 31, both
128 dates inclusive;

129 (c) "Charges" shall mean the payments required by Federal Reclamation law in
130 addition to the Rates specified in this Contract as determined annually by the Contracting Officer
131 pursuant to this Contract and consistent with the SJRRSA;

132 (d) "Class 1 Water" shall mean that supply of water stored in or flowing through
133 Millerton Lake which, subject to the contingencies hereinafter described in Articles 3, 12, and 13 of
134 this Contract, will be available for delivery from Millerton Lake and the Friant-Kern and Madera
135 Canals as a dependable water supply during each Year;

136 (e) "Class 2 Water" shall mean that supply of water which can be made available
137 subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this Contract for
138 delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of
139 Class 1 Water. Because of its uncertainty as to availability and time of occurrence, such water will
140 be undependable in character and will be furnished only if, as, and when it can be made available as
141 determined by the Contracting Officer;

142 (f) "Condition of Shortage" shall mean a condition respecting the Project during
143 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract
144 Total;

145 (g) "Contracting Officer" shall mean the Secretary of the Interior's duly
146 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or
147 regulation;

148 (h) "Contract Total" shall mean the maximum amount of Class 1 Water plus the
149 maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract and is the
150 stated share or quantity of the Project's available water supply to which the Contractor has a
151 permanent right in accordance with the 1956 Act and the terms of this Contract, due to the
152 Contractor's complete payment of the Repayment Obligation, notwithstanding any Additional Capital
153 Obligation that may later be established, which right shall not be disturbed so long as the Contractor
154 fulfills all of its obligations under this Contract;

155 (i) "Contractor's Service Area" shall mean the area to which the Contractor is
156 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,
157 which may be modified from time to time in accordance with Article 36 of this Contract without
158 amendment of this Contract;

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

161 (k) Omitted;

162 (l) Omitted;

163 (m) "Existing Capital Obligation" shall mean the remaining amount of construction
164 costs of the Contractor identified in the Central Valley Project Irrigation Water Rates and/or
165 Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as adjusted to reflect
166 payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A) of the SJRRSA. The
167 Contracting Officer has computed the Existing Capital Obligation in a manner consistent with the
168 SJRRSA and such amount is set forth in Exhibits "C-1" and "C-2", incorporated herein by reference;

169 (n) “Financing Costs”, for purposes of computing the reduction of certain charges
170 as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference between the net
171 present value of the Existing Capital Obligation discounted using the full Treasury rate and the
172 Existing Capital Obligation discounted using one-half the Treasury Rate, as set forth in Section
173 10010(d)(3) of the SJRRA;

174 (o) Omitted;

175 (p) Omitted;

176 (q) Omitted;

177 (r) “Irrigation Water” shall mean water made available from the Project that is
178 used primarily in the production of agricultural crops or livestock, including domestic use incidental
179 thereto, and watering of livestock;

180 (s) Omitted;

181 (t) “Long Term Historic Average” shall mean the average of the final forecast of
182 Water Made Available to the Contractor pursuant to this Contract and the contracts referenced in the
183 third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

184 (u) “Municipal and Industrial (M&I) Water” shall mean Water Made Available
185 from the Project other than Irrigation Water made available to the Contractor. M&I Water shall
186 include water used for human use and purposes such as the watering of landscaping or pasture for
187 animals (e.g., horses) which are kept for personal enjoyment or water delivered to land holdings
188 operated in units of less than five (5) acres unless the Contractor establishes to the satisfaction of the

189 Contracting Officer that the use of water delivered to any such landholding is a use described in
190 subdivision (r) of this Article of this Contract;

191 (v) Omitted;

192 (w) "Operation and Maintenance" or "O&M" shall mean normal and reasonable
193 care, control, operation, repair, replacement (other than Capital replacement), and maintenance of
194 Project facilities;

195 (x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or its
196 successor, a Non-Federal entity, which has the obligation to operate and maintain all or a portion of
197 the Friant Division Facilities pursuant to an agreement with the United States and which may have
198 funding obligations with respect thereto;

199 (y) Omitted.

200 (z) "Project" shall mean the Central Valley Project owned by the United States
201 and managed by the Department of the Interior, Bureau of Reclamation;

202 (aa) "Project Contractors" shall mean all parties who have a long-term water
203 service contract or repayment contract for Project Water from the Project with the United States
204 pursuant to Federal Reclamation law;

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

208 (cc) "Rates" shall mean the payments for O&M costs as determined annually by the
209 Contracting Officer in accordance with the then-existing applicable water ratesetting policies for the

210 Project, as described in subdivision (a) of Article 7 of this Contract and illustrated in Exhibit “B”,
211 attached hereto;

212 (dd) “Recovered Water Account” shall mean the program, as defined in the
213 Settlement, to make water available to all of the Friant Division Project Contractors who provide
214 water to meet interim flows or restoration flows for the purpose of reducing or avoiding the impact of
215 the interim flows and restoration flows on such contractors;

216 (ee) “Repayment Obligation”, as provided in subdivision (a)(2)(A) of Article 7 of
217 this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by one-half of
218 the Treasury rate and computed consistent with the provisions of Section 10010(3)(A) of the
219 SJRRSA to be paid as either a lump sum payment by January 31, 2011 or in approximately equal
220 annual installments by January 31, 2014;

221 (ff) “Secretary” shall mean the Secretary of the Interior, a duly appointed
222 successor, or an authorized representative acting pursuant to any authority of the Secretary and
223 through any agency of the Department of the Interior;

224 (gg) “Settlement” shall mean the Stipulation of Settlement dated September 13,
225 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued by
226 the Court pursuant to the terms and conditions of the Settlement in Natural Resources Defense
227 Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

228 (hh) Omitted;

229 (ii) “Water Delivered” or “Delivered Water” shall mean Project Water diverted for
230 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

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

234 (kk) "Water Management Goal" shall mean the goal of the Settlement to reduce or
235 avoid adverse water supply impacts to all the Friant Division Project Contractors that may result from
236 the interim flows and restoration flows provided for in the Settlement;

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

240 (mm) "Year" shall mean the period from and including March 1 of each Calendar
241 Year through the last day of February of the following Calendar Year.

242 EFFECTIVE DATE OF CONTRACT

243 2. (a) This Contract shall become effective on the date first hereinabove written and
244 shall continue so long as the Contractor is making the annual payments required herein and paying
245 any other amounts owing under this Contract and applicable law, unless it is terminated by the
246 Contracting Officer by reason of a material uncured breach by the Contractor; Provided, That the
247 Contracting Officer shall not seek to terminate this Contract by reason of an asserted material
248 uncured breach by the Contractor unless it has first provided at least sixty (60) days written notice of
249 the asserted breach to the Contractor and the Contractor has failed to cure such breach (or to
250 diligently commence curative actions satisfactory to the Contracting Officer for a breach that cannot

251 be fully cured within sixty (60) days) within the sixty (60)-day notice period; Provided further, That
252 this Contract may be terminated at any time by mutual consent of the parties hereto.

253 (b) The Contractor has paid the Repayment Obligation, and notwithstanding any
254 Additional Capital Obligation that may later be established, the tiered pricing component and the
255 acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law, shall no
256 longer be applicable to the Contractor.

257 (c) This Contract supersedes in its entirety and is intended to replace in full the
258 Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or
259 unenforceable for any reason other than a material uncured breach of this Contract by the Contractor,
260 the Existing Contract shall not be superseded and shall be in full force and effect.

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, the Settlement including the SJRRSA, and subject to the provisions set
264 forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make available for delivery
265 to the Contractor from the Project 33,000 acre-feet of Class 1 Water and 22,000 acre-feet of Class 2
266 Water for irrigation and M&I purposes. The quantity of Water Delivered to the Contractor in
267 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of
268 Articles 4 and 7 of this Contract.

269 (b) The Contractor has paid the Repayment Obligation, and notwithstanding any
270 Additional Capital Obligation that may later be established, the Contractor has a permanent right to
271 the Contract Total in accordance with the 1956 Act and the terms of this Contract. This right shall

272 not be disturbed so long as the Contractor fulfills all of its obligations hereunder. The quantity of
273 water made available for delivery in any given Year shall remain subject to the terms and conditions
274 of subdivision (a) of this Article of this Contract.

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

277 (d) The Contractor shall make reasonable and beneficial use of all Project Water
278 or other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater
279 banking programs, surface water storage programs, and other similar programs utilizing Project
280 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service
281 Area which are consistent with applicable State law and result in use consistent with applicable
282 Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are)
283 described in the Contractor's Water Conservation Plan submitted pursuant to Article 27 of this
284 Contract; Provided further, That such Water Conservation Plan demonstrates sufficient lawful uses
285 exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered
286 Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation
287 law. Groundwater recharge programs, groundwater banking programs, surface water storage
288 programs, and other similar programs utilizing Project Water or other water furnished pursuant to this
289 Contract conducted outside the Contractor's Service Area may be permitted upon written approval of
290 the Contracting Officer, which approval will be based upon environmental documentation, Project
291 Water rights, and Project operational concerns. The Contracting Officer will address such concerns
292 in regulations, policies, or guidelines.

293 (e) The Contractor, through this Contract, shall comply with requirements
294 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation regarding
295 the execution of the Existing Contract undertaken pursuant to Section 7 of the Endangered Species
296 Act of 1973, as amended, as well as the requirements of any other biological opinions applicable to
297 Project Water delivery under this Contract, that are within the Contractor’s legal authority to
298 implement. The Contractor shall comply with the limitations or requirements imposed by
299 environmental documentation applicable to the Contractor and within its legal authority to implement
300 regarding specific activities, including conversion of Irrigation Water to M&I Water. Nothing herein
301 shall be construed to prevent the Contractor from challenging or seeking judicial relief in a court of
302 competent jurisdiction with respect to any biological opinion or other environmental documentation
303 referred to in this Article of this Contract.

304 (f) Subject to subdivisions (l) and (n) of this Article of this Contract, following the
305 declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will
306 make a determination whether Project Water, or other water available to the Project, can be made
307 available to the Contractor in addition to the Contract Total in this Article of this Contract during the
308 Year without adversely impacting the Project or other Project Contractors and consistent with the
309 Secretary’s legal obligations. At the request of the Contractor, the Contracting Officer will consult
310 with the Contractor prior to making such a determination. Subject to subdivisions (l) and (n) of this
311 Article of this Contract, if the Contracting Officer determines that Project Water, or other water
312 available to the Project, can be made available to the Contractor, the Contracting Officer will
313 announce the availability of such water and shall so notify the Contractor as soon as practical. The

314 Contracting Officer will thereafter meet with the Contractor and other Project Contractors capable of
315 taking such water to determine the most equitable and efficient allocation of such water. If the
316 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make
317 such water available to the Contractor in accordance with applicable statutes, regulations, guidelines,
318 and policies.

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

325 (h) The Contractor’s right pursuant to Federal Reclamation law and applicable
326 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract shall
327 not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract.
328 Nothing in the preceding sentence shall affect the Contracting Officer’s ability to impose shortages
329 under Article 12 or subdivision (b) of Article 13 of this Contract.

330 (i) Project Water furnished to the Contractor pursuant to this Contract may be
331 delivered for purposes other than those described in subdivisions (r) and (u) of Article 1 of this
332 Contract upon written approval by the Contracting Officer in accordance with the terms and
333 conditions of such approval.

334 (j) The Contracting Officer shall make reasonable efforts to protect the water
335 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to provide
336 the water available under this Contract. The Contracting Officer shall not object to participation by
337 the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings
338 related to the water rights and other rights described in the fifth (5th) Explanatory Recital of this
339 Contract; Provided however, That the Contracting Officer retains the right to object to the substance
340 of the Contractor's position in such a proceeding. Provided further, that in such proceedings the
341 Contracting Officer shall recognize the Contractor has a legal right under the terms of this Contract to
342 use Project Water.

343 (k) Project Water furnished to the Contractor during any month designated in a
344 schedule or revised schedule submitted by the Contractor and approved by the Contracting Officer
345 shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent that Class 1
346 Water is called for in such schedule for such month and shall be deemed to have been accepted as
347 Class 2 Water to the extent Class 2 Water is called for in such schedule for such month. If in any
348 month the Contractor diverts a quantity of water in addition to the total amount of Class 1 Water and
349 Class 2 Water set forth in the Contractor's approved schedule or revised schedule for such month,
350 such additional diversions shall be charged first against the Contractor's remaining Class 2 Water
351 supply available in the current Year. To the extent the Contractor's remaining Class 2 Water supply
352 available in the current Year is not sufficient to account for such additional diversions, such
353 additional diversions shall be charged against the Contractor's remaining Class 1 Water supply
354 available in the current Year. To the extent the Contractor's remaining Class 1 Water and Class 2

355 Water supplies available in the current Year are not sufficient to account for such additional
356 diversions, such additional diversions shall be charged first against the Contractor's available Class 2
357 Water supply and then against the Contractor's available Class 1 Water supply, both for the following
358 Year. Payment for all additional diversions of water shall be made in accordance with Article 7 of
359 this Contract.

360 (l) If the Contracting Officer determines there is a Project Water supply available
361 at Friant Dam as the result of an unusually large water supply not otherwise storable for Project
362 purposes or infrequent and otherwise unmanaged flood flows of short duration, such water will be
363 made available to the Contractor and others under Section 215 of the Act of October 12, 1982,
364 pursuant to the priorities specified below if the Contractor enters into a temporary contract with the
365 United States not to exceed one (1) year for the delivery of such water or as otherwise provided for in
366 Federal Reclamation law and associated regulations. Such water may be identified by the Contractor
367 either (i) as additional water to supplement the supply of Class 1 Water and/or Class 2 Water made
368 available to it pursuant to this Contract or, (ii) upon written notification to the Contracting Officer, as
369 water to be credited against the Contractor's Class 2 Water supply available pursuant to this Contract.
370 The Contracting Officer shall make water determined to be available pursuant to this subsection
371 according to the following priorities: first, to contractors for Class 1 Water and/or Class 2 Water
372 within the Friant Division; second, to contractors in the Cross Valley Division of the Project. The
373 Contracting Officer will consider requests from other parties for Section 215 Water for use within the
374 area identified as the Friant Division service area in the environmental assessment developed in
375 connection with the execution of the Existing Contract.

376 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
377 Contracting Officer in connection with the implementation of this Contract, is intended to override,
378 modify, supersede or otherwise interfere with any term or condition of the water rights and other
379 rights referred in the fifth (5th) Explanatory Recital of this Contract.

380 (n) The rights of the Contractor under this Contract are subject to the terms of the
381 contract for exchange waters, dated July 27, 1939, between the United States and the San Joaquin and
382 Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred to as the
383 Exchange Contractors), Contract No. I1r-1144, as amended. The United States agrees that it will not
384 deliver to the Exchange Contractors thereunder waters of the San Joaquin River unless and until
385 required by the terms of said contract, and the United States further agrees that it will not voluntarily
386 and knowingly determine itself unable to deliver to the Exchange Contractors entitled thereto from
387 water that is available or that may become available to it from the Sacramento River and its
388 tributaries or the Sacramento-San Joaquin Delta those quantities required to satisfy the obligations of
389 the United States under said Exchange Contract and under Schedule 2 of the Contract for Purchase of
390 Miller and Lux Water Rights (Contract I1r-1145, dated July 27, 1939).

391 (o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph 16 of
392 the Settlement, the Contracting Officer is required to develop and implement a plan for recirculation,
393 recapture, reuse, exchange or transfer of water released for restoration flows or interim flows, as
394 those terms are defined in the Settlement, to reduce or avoid impacts to water deliveries caused by
395 said restoration flows or interim flows. Water developed through such activities may be made
396 available (i) to the Contractor without the need of an additional contract, and/or (ii) to others on

397 behalf of the Contractor under terms mutually acceptable to the Contractor and the Contracting
398 Officer that are consistent with the Water Management Goal.

399 TIME FOR DELIVERY OF WATER

400 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
401 announce the Contracting Officer's initial declaration of the Water Made Available. The declaration
402 will be updated monthly and more frequently if necessary, based on then-current operational and
403 hydrologic conditions and a new declaration with changes, if any, to the Water Made Available will
404 be made. The Contracting Officer shall provide forecasts of Project operations and the basis of the
405 estimate, with relevant supporting information, upon the written request of the Contractor.

406 Concurrently with the declaration of the Water Made Available, the Contracting Officer shall provide
407 the Contractor with the updated Long Term Historic Average. The declaration of Project operations
408 will be expressed in terms of both Water Made Available and the Long Term Historic Average.

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

415 (c) The Contractor shall not schedule Project Water in excess of the quantity of
416 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's

417 Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract or bank pursuant
418 to subdivision (d) of Article 3 of this Contract during any Year.

419 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
420 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
421 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
422 revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior to
423 the date(s) on which the requested change(s) is/are to be implemented; Provided, That the total
424 amount of water requested in that schedule or revision does not exceed the quantities announced by
425 the Contracting Officer pursuant to the provisions of subdivision (a) of Article 3 of this Contract, and
426 the Contracting Officer determines that there will be sufficient capacity available in the appropriate
427 Friant Division Facilities to deliver the water in accordance with that schedule; Provided further,
428 That the Contractor shall not schedule the delivery of any water during any period as to which the
429 Contractor is notified by the Contracting Officer or Operating Non-Federal Entity that Project
430 facilities required to make deliveries to the Contractor will not be in operation because of scheduled
431 O&M.

432 (e) The Contractor may, during the period from and including November 1 of each
433 Year through and including the last day of February of that Year, request delivery of any amount of
434 the Class 1 Water estimated by the Contracting Officer to be made available to it during the following
435 Year. The Contractor may, during the period from and including January 1 of each Year (or such
436 earlier date as may be determined by the Contracting Officer) through and including the last day of
437 February of that Year, request delivery of any amount of Class 2 Water estimated by the Contracting

438 Officer to be made available to it during the following Year. Such water shall hereinafter be referred
439 to as pre-use water. Such request must be submitted in writing by the Contractor for a specified
440 quantity of pre-use and shall be subject to the approval of the Contracting Officer. Payment for pre-
441 use water so requested shall be at the appropriate Rate(s) for the following Year in accordance with
442 Article 7 of this Contract and shall be made in advance of delivery of any pre-use water. The
443 Contracting Officer shall deliver such pre-use water in accordance with a schedule or any revision
444 thereof submitted by the Contractor and approved by the Contracting Officer, to the extent such water
445 is available and to the extent such deliveries will not interfere with the delivery of Project Water
446 entitlements to other Friant Division contractors or the physical maintenance of the Project facilities.
447 The quantities of pre-use Water Delivered pursuant to this subdivision shall be deducted from the
448 quantities of water that the Contracting Officer would otherwise be obligated to make available to the
449 Contractor during the following Year; Provided, That the quantity of pre-use water to be deducted
450 from the quantities of either Class 1 Water or Class 2 Water to be made available to the Contractor in
451 the following Year shall be specified by the Contractor at the time the pre-use water is requested or as
452 revised in its first schedule for the following Year submitted in accordance with subdivision (b) of
453 this Article of this Contract, based on the availability of the following Year water supplies as
454 determined by the Contracting Officer.

455 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

456 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
457 Contract shall be delivered to the Contractor at a point or points of delivery either on Project facilities

458 or another location or locations mutually agreed to in writing by the Contracting Officer and the
459 Contractor.

460 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
461 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of water in
462 the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts established
463 pursuant to subdivision (a) of this Article of this Contract.

464 (c) The Contractor shall not deliver Project Water to land outside the Contractor's
465 Service Area unless approved in advance by the Contracting Officer. The Contractor shall deliver
466 Project Water in accordance with applicable Federal Reclamation law.

467 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
468 measured and recorded with equipment furnished, installed, operated, and maintained by the United
469 States, the Operating Non-Federal Entity or other appropriate entity as designated by the Contracting
470 Officer (hereafter "other appropriate entity") at the point or points of delivery established pursuant to
471 subdivision (a) of this Article of this Contract. Upon the request of either party to this Contract, the
472 Contracting Officer shall investigate, or cause to be investigated by the responsible Operating Non-
473 Federal Entity, the accuracy of such measurements and shall take any necessary steps to adjust any
474 errors appearing therein. For any period of time when accurate measurements have not been made,
475 the Contracting Officer shall consult with the Contractor and the responsible Operating Non-Federal
476 Entity prior to making a final determination of the quantity delivered for that period of time.

477 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be
478 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water

479 Delivered to the Contractor pursuant to this Contract beyond the delivery points specified in
480 subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United States, its
481 officers, employees, agents, and assigns on account of damage or claim of damage of any nature
482 whatsoever for which there is legal responsibility, including property damage, personal injury, or
483 death arising out of or connected with the control, carriage, handling, use, disposal, or distribution of
484 such Project Water beyond such delivery points, except for any damage or claim arising out of: (i)
485 acts or omissions of the Contracting Officer or any of its officers, employees, agents, or assigns,
486 including any responsible Operating Non-Federal Entity, with the intent of creating the situation
487 resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or any of its
488 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity; (iii)
489 negligence of the Contracting Officer or any of its officers, employees, agents, or assigns including
490 any responsible Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction
491 of facilities owned and/or operated by the United States or responsible Operating Non-Federal Entity;
492 Provided, That the Contractor is not the Operating Non-Federal Entity that owned or operated the
493 malfunctioning facility(ies) from which the damage claim arose.

494 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

495 6. (a) The Contractor has established a measurement program satisfactory to the
496 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's
497 Service Area is measured at each agricultural turnout; and water delivered for M&I purposes is
498 measured at each M&I service connection. The water measuring devices or water measuring
499 methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor

500 shall be responsible for installing, operating, and maintaining and repairing all such measuring
501 devices and implementing all such water measuring methods at no cost to the United States. The
502 Contractor shall use the information obtained from such water measuring devices or water measuring
503 methods to ensure its proper management of the water, to bill water users for water delivered by the
504 Contractor; and, if applicable, to record water delivered for M&I purposes by customer class as
505 defined in the Contractor's water conservation plan provided for in Article 27 of this Contract.
506 Nothing herein contained, however, shall preclude the Contractor from establishing and collecting
507 any charges, assessments, or other revenues authorized by California law.

508 (b) To the extent the information has not otherwise been provided, upon execution
509 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
510 the measurement devices or water measuring methods being used or to be used to implement
511 subdivision (a) of this Article of this Contract and identifying the agricultural turnouts and the M&I
512 service connections or alternative measurement programs approved by the Contracting Officer, at
513 which such measurement devices or water measuring methods are being used, and, if applicable,
514 identifying the locations at which such devices and/or methods are not yet being used including a
515 time schedule for implementation at such locations. The Contracting Officer shall advise the
516 Contractor in writing within sixty (60) days as to the adequacy of, and necessary modifications, if
517 any, of the measuring devices or water measuring methods identified in the Contractor's report and if
518 the Contracting Officer does not respond in such time, they shall be deemed adequate. If the
519 Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate, the
520 parties shall within sixty (60) days following the Contracting Officer's response, negotiate in good

521 faith the earliest practicable date by which the Contractor shall modify said measuring devices and/or
522 measuring methods as required by the Contracting Officer to ensure compliance with subdivision (a)
523 of this Article of this Contract.

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

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

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

533 RATES, METHOD OF PAYMENT FOR WATER,
534 AND ACCELERATED REPAYMENT OF FACILITIES

535 7. (a) The Contractor's cost obligations for all Delivered Water shall be determined
536 in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the
537 Secretary's then-existing ratesetting policy for M&I Water, consistent with the SJRRSA, and such
538 ratesetting policies shall be amended, modified, or superseded only through a public notice and
539 comment procedure; (ii) applicable Federal Reclamation law and associated rules and regulations, or
540 policies; and (iii) other applicable provisions of this Contract.

541 (1) The Contractor shall pay the United States as provided for in this
542 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance with

543 policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to recover
544 its estimated reimbursable costs included in the O&M Component of the Rate and amounts
545 established to recover other charges and deficits, other than the construction costs. The Rates for
546 O&M costs and Charges shall be adjusted, as appropriate, in accordance with the provisions of the
547 SJRRSA.

548 (2) Omitted.

549 (A) Omitted.

550 (B) Project construction costs or other capitalized costs attributable
551 to capital additions to the Project incurred after the effective date of this Contract or that are not
552 reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly assignable to the
553 Contractor, shall be repaid as prescribed by the SJRRSA without interest except as required by law.
554 Consistent with Federal Reclamation law, interest shall continue to accrue on the M&I portion of
555 unpaid Project construction costs or other capitalized cost assigned to the Contractor until such costs
556 are paid. Increases or decreases in Project construction costs or other capitalized costs assigned to the
557 Contractor caused solely by annual adjustment of Project construction costs or other capitalized costs
558 assigned to each CVP contractor by the Secretary shall not be considered in determining the amounts
559 to be paid pursuant to this subdivision (a)(2)(B), but will be considered under subdivision (b) of this
560 Article. A separate repayment agreement shall be established by the Contractor and the Contracting
561 Officer to accomplish repayment of all additional Project construction costs or other capitalized costs
562 assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the following:

563 (1) If the collective annual Project construction costs or
564 other capitalized costs that are incurred after the effective date of this Contract and properly
565 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly
566 assignable to the Contractor shall be repaid in not more than five (5) years after notification of the
567 allocation. This amount is the result of a collective annual allocation of Project construction costs to
568 the contractors exercising contract conversions; Provided, That the reference to the amount of
569 \$5,000,000 shall not be a precedent in any other context.

570 (2) If the collective annual Project construction costs or
571 other capitalized costs that are incurred after the effective date of this Contract and properly
572 assignable to the contractors are \$5,000,000 or greater, then the portion of such costs properly
573 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law. This
574 amount is the result of a collective annual allocation of Project construction costs to the contractors
575 exercising contract conversions; Provided, That the reference to the amount of \$5,000,000 shall not
576 be a precedent in any other context.

577 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost
578 allocation by the Secretary upon completion of the construction of the Central Valley Project, the
579 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any reallocation
580 of Project construction costs or other capitalized costs assigned to the Contractor that may have
581 occurred between the determination of Contractor's Existing Capital Obligation and the final cost
582 allocation. In the event that the final cost allocation, as determined by the Secretary, indicates that
583 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are greater

584 than the Existing Capital Obligation and other amounts of Project construction costs or other
585 capitalized costs paid by the Contractor, then the Contractor shall be obligated to pay the remaining
586 allocated costs. The term of such additional repayment contract shall be no less than one (1) year and
587 no more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment
588 of such amount may be developed by the parties. In the event that the final cost allocation, as
589 determined by the Secretary, indicates that the costs properly assignable to the Contractor, as
590 determined by the Contracting Officer, are less than the Existing Capital Obligation and other
591 amounts of Project construction costs or other capitalized costs paid by the Contractor, then the
592 Contracting Officer shall credit such overpayment as an offset against any outstanding or future
593 obligation of the Contractor, consistent with the SJRRSA. This Contract shall be implemented in a
594 manner consistent with Section 10010(f) of the SJRRSA.

595 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the
596 Contractor an estimate of the Charges for Project Water that will be applied to the period October 1,
597 of the current Calendar Year, through September 30, of the following Calendar Year, and the basis
598 for such estimate. The Contractor shall be allowed not less than two (2) months to review and
599 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
600 Officer shall notify the Contractor in writing of the Charges to be in effect during the period October
601 1 of the current Calendar Year, through September 30 of the following Calendar Year, and such
602 notification shall revise Exhibit "B". Charges shall be subject to reduction consistent with the
603 SJRRSA based upon the average annual delivery amount agreed to by the Contracting Officer and the
604 Contractor.

605 (1) For the years 2020 through 2039 inclusive, Charges shall reflect the
606 reduction on a per acre-foot basis consistent with Section 10010(d)(1) of the SJRRSA. Exhibit “D”
607 sets forth the reduction in Charges to offset the Financing Costs as prescribed in Section 10010(d)(1)
608 of the SJRRSA; Provided, That if the Secretary determines such Charges are otherwise needed, an
609 equivalent reduction will be made to O&M costs consistent with such provisions of the SJRRSA.
610 Consistent with Section 10010(d)(1) of the SJRRSA and as shown in Exhibit “D”, the Friant
611 Surcharge reduction has been calculated based upon the anticipated average annual water deliveries,
612 for the purpose of this reduction only, mutually agreed upon by the Secretary and the Contractor for
613 the period from January 1, 2020 through December 31, 2039. The Friant Surcharge reduction shall
614 remain fixed and shall only be applied to Water Delivered pursuant to this Contract to which the
615 Friant Surcharge applies (including but not limited to water transferred, banked, or exchanged),
616 commencing on January 1, 2020 until such volume of Water Delivered equals 622,600 acre-feet or
617 December 31, 2039, whichever occurs first.

618 (2) Further, to fully offset the Financing Costs, Contractor shall be entitled
619 to a reduction in other outstanding or future obligations of the Contractor in accordance with Section
620 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding or future
621 obligations of the Contractor after October 1, 2019 has been computed by the Contracting Officer,
622 and as computed, such amount is set forth in Exhibit “D”.

623 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall make
624 available to the Contractor an estimate of the Rates for Project Water for the following Year and the
625 computations and cost allocations upon which those Rates are based. The Contractor shall be

626 allowed not less than two (2) months to review and comment on such computations and cost
627 allocations. By December 31 of each Calendar Year, the Contracting Officer shall provide the
628 Contractor with the final Rates to be in effect for the upcoming Year, and such notification shall
629 revise Exhibit "B". The O&M component of the Rate may be reduced as provided in the SJRRSA.

630 (e) At the time the Contractor submits the initial schedule for the delivery of
631 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
632 shall make an advance payment to the United States equal to the total amount payable pursuant to the
633 applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the Project Water
634 scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the
635 Year. Before the end of the first month and before the end of each calendar month thereafter, the
636 Contractor shall make an advance payment to the United States, at the Rate(s) set under subdivision
637 (a) of this Article of this Contract, for the Water Scheduled to be delivered pursuant to this Contract
638 during the second month immediately following. Adjustments between advance payments for Water
639 Scheduled and payments at Rates due for Water Delivered shall be made before the end of the
640 following month; Provided, That any revised schedule submitted by the Contractor pursuant to
641 Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract
642 during any month shall be accompanied with appropriate advance payment, at the Rates then in
643 effect, to assure that Project Water is not delivered to the Contractor in advance of such payment. In
644 any month in which the quantity of Water Delivered to the Contractor pursuant to this Contract
645 equals the quantity of Water Scheduled and paid for by the Contractor, no additional Project Water
646 shall be delivered to the Contractor unless and until an advance payment at the Rates then in effect

647 for such additional Project Water is made. Final adjustment between the advance payments for the
648 Water Scheduled and payments for the quantities of Water Delivered during each Year pursuant to
649 this Contract shall be made as soon as practicable but no later than April 30th of the following Year,
650 or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article 3 of
651 this Contract if such water is not delivered by the last day of February.

652 (f) The Contractor shall also make a payment in addition to the Rate(s) in
653 subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the
654 Charges then in effect, before the end of the month following the month of delivery. The payments
655 shall be consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the
656 water delivery report for the subject month prepared by the Contracting Officer. Such water delivery
657 report shall be the basis for payment of Charges by the Contractor, and shall be provided to the
658 Contractor by the Contracting Officer (as applicable) within five (5) days after the end of the month
659 of delivery. The water delivery report shall be deemed a bill basis for payment of Charges for Water
660 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the
661 adjustment of payments due to the United States for Charges for the next month. Any amount to be
662 paid for past due payment of Charges shall be computed pursuant to Article 21 of this Contract.

663 (g) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or
664 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
665 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;
666 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall

667 be no more than the otherwise applicable Rate for Irrigation Water or M&I Water under subdivision
668 (a) of this Article of this Contract.

669 (h) Payments to be made by the Contractor to the United States under this
670 Contract may be paid from any revenues available to the Contractor.

671 (i) All revenues received by the United States from the Contractor relating to the
672 delivery of Project Water or the delivery of non-project water through Project facilities shall be
673 allocated and applied in accordance with Federal Reclamation law and the associated rules or
674 regulations, the then-existing Project Ratesetting policies for M&I Water or Irrigation Water, and
675 consistent with the SJRRSA.

676 (j) The Contracting Officer shall keep its accounts, pertaining to the
677 administration of the financial terms and conditions of its long-term contracts, in accordance with
678 applicable Federal standards so as to reflect the application of Project costs and revenues. The
679 Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a
680 detailed accounting of all Project and Contractor expense allocations, the disposition of all Project
681 and Contractor revenues, and a summary of all water delivery information. The Contracting Officer
682 and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes
683 relating to accountings, reports, or information.

684 (k) The parties acknowledge and agree that the efficient administration of this
685 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
686 policies, and procedures used for establishing Rates, Charges, and/or for making and allocating
687 payments, other than those set forth in this Article of this Contract, may be in the mutual best interest

688 of the parties, it is expressly agreed that the parties may enter into agreements to modify the
689 mechanisms, policies, and procedures for any of those purposes while this Contract is in effect
690 without amending this Contract.

691 (1) (1) Omitted.

692 (2) Omitted.

693 (3) Omitted.

694 (m) Rates under the respective ratesetting policies will be established to recover
695 only reimbursable O&M (including any deficits) costs of the Project, as those terms are used in the
696 then-existing Project ratesetting policies, and consistent with the SJRRSA, and interest, where
697 appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant
698 Project ratesetting policy. Changes of significance in practices which implement the Contracting
699 Officer's ratesetting policies will not be implemented until the Contracting Officer has provided the
700 Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

701 (n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
702 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted
703 upward or downward to reflect the changed costs of delivery (if any) incurred by the Contracting
704 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in
705 accordance with the then-existing Central Valley Project Ratesetting Policy.

706

707 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

708 8. The Contractor and the Contracting Officer concur that, as of the effective date of this
709 Contract, the Contractor has no non-interest bearing operation and maintenance deficits and therefore
710 shall have no further liability.

711 RECOVERED WATER ACCOUNT

712 9. (a) Notwithstanding any other provisions of this Contract, water delivered to the
713 Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the Settlement and
714 affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of \$10.00 per acre foot.
715 Recovered Water Account water provided to the Contractor shall be administered at a priority for
716 delivery lower than Class 2 Water and higher than Section 215 Water.

717 (b) The manner in which the Recovered Water Account will be administered will
718 be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA, and
719 Paragraph 16 of the Settlement.

720 SALES, TRANSFERS, AND EXCHANGES OF WATER

721 10. (a) The right to receive Project Water provided for in this Contract may be sold,
722 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if
723 such sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable
724 guidelines or regulations then in effect. No sale, transfer, or exchange of Project Water under this
725 Contract may take place without the prior written approval of the Contracting Officer, except as
726 provided for in subdivisions (b) and (c) of this Article of this Contract. No such Project Water sales,
727 transfers, or exchanges shall be approved, where approval is required, absent compliance with

728 appropriate environmental documentation including but not limited to the National Environmental
729 Policy Act and the Endangered Species Act. Such environmental documentation must include, as
730 appropriate, an analysis of groundwater impacts and economic and social effects, including
731 environmental justice, of the proposed Project Water sales, transfers and exchanges on both the
732 transferor/exchanger and transferee/exchange recipient.

733 (b) In order to facilitate efficient water management by means of Project Water
734 sales, transfers, or exchanges of the type historically carried out among Project Contractors located
735 within the same geographical area and to allow the Contractor to participate in an accelerated water
736 transfer program, the Contracting Officer has prepared, as appropriate, necessary environmental
737 documentation including, but not limited to, the National Environmental Policy Act and the
738 Endangered Species Act analyzing annual Project Water sales, transfers, or exchanges among
739 Contractors within the same geographical area and the Contracting Officer has determined that such
740 Project Water sales, transfers, and exchanges comply with applicable law.

741 (c) Project Water sales, transfers, and exchanges analyzed in the environmental
742 documentation referenced in subdivision (b) of this Article of this Contract, shall be conducted with
743 advance notice to the Contracting Officer and the Contracting Officer's written acknowledgement of
744 the transaction, but shall not require prior written approval by the Contracting Officer.

745 (d) For Project Water sales, transfers, or exchanges to qualify under subdivision
746 (b) of this Article of this Contract such Project Water sale, transfer, or exchange must: (i) be for
747 irrigation purposes for lands irrigated within the previous three (3) years, for M&I use, groundwater
748 recharge, groundwater banking, similar groundwater activities, surface water storage, or fish and

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

756 (e) The environmental documentation and the Contracting Officer's compliance
757 determination for transactions described in subdivision (b) of this Article of this Contract shall be
758 reviewed every five (5) years and updated, as necessary, prior to the expiration of the then-existing
759 five (5) year period. All subsequent environmental documentation shall include an alternative to
760 evaluate not less than the quantity of Project Water historically sold, transferred, or exchanged within
761 the same geographical area.

762 (f) Consistent with Section 10010(e)(1) of the SJRRSA, any agreement providing
763 for sale, transfer, or exchange of Project Water that is not used for interim flows or restoration flows
764 pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy the requirements of
765 CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or exchanges comply with
766 sub-division (f)(1) and (f)(2) below.

767 (1) Project Water sales, transfers, and exchanges conducted under the
768 provisions of subdivision (f) of this Article of this Contract shall not require the Contracting Officer's
769 concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the Contractor

770 shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1) year, provide
771 ninety (90) days written advance notification to the Contracting Officer and similarly thirty (30) days
772 written advance notification of any Project Water sale, transfer, or exchange with a term of less than
773 one (1) year. The Contracting Officer shall promptly make such notice publicly available.

774 (2) The Contractor's thirty (30) days or ninety (90) days advance written
775 notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain how the
776 proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or mitigate
777 impacts to Project Water deliveries caused by interim or restoration flows or is otherwise intended to
778 facilitate the Water Management Goal as described in the SJRRSA. The Contracting Officer shall
779 promptly make such notice publicly available.

780 (3) In addition, the Contracting Officer shall, at least annually, make
781 available publicly a compilation of the number of Project Water sales, transfers, and exchange
782 agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this
783 Contract.

784 (4) Project Water sold, transferred, or exchanged under an agreement that
785 meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be counted as
786 a replacement or an offset for purposes of determining reductions to Project Water deliveries to any
787 Friant Division Project Contractor except as provided in Paragraph 16(b) of the Settlement.

788 (g) Notwithstanding any Additional Capital Obligation that may later be
789 established, in the case of a sale or transfer of Irrigation Water to another contractor which is
790 otherwise subject to the acreage limitations, reporting, and Full Cost pricing provisions of the

791 Reclamation Reform Act of 1982, as amended, hereinafter referred to as the RRA, such sold or
792 transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of a
793 sale or transfer of Irrigation Water to the Contractor from another contractor which is subject to RRA
794 provisions, such RRA provisions shall apply to delivery of such water.

795 APPLICATION OF PAYMENTS AND ADJUSTMENTS

796 11. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
797 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
798 the Contractor arising out of this Contract then due and payable. Overpayments of more than One
799 Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any
800 amount of such overpayment, at the option of the Contractor, may be credited against amounts to
801 become due to the United States by the Contractor. With respect to overpayment, such refund or
802 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have
803 the right to the use of any of the Project Water supply provided for herein. All credits and refunds of
804 overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as
805 to how to credit or refund such overpayment in response to the notice to the Contractor that it has
806 finalized the accounts for the Year in which the overpayment was made.

807 (b) All advances for miscellaneous costs incurred for work requested by the
808 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs when the
809 work has been completed. If the advances exceed the actual costs incurred, the difference will be
810 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will
811 be billed for the additional costs pursuant to Article 26 of this Contract.

812 TEMPORARY REDUCTIONS—RETURN FLOWS

813 12. (a) The Contracting Officer shall make all reasonable efforts to optimize delivery
814 of the Contract Total subject to: (i) the authorized purposes and priorities of the Project; (ii) the
815 requirements of Federal law and the Settlement; and (iii) the obligations of the United States under
816 existing contracts, or renewals thereof, providing for water deliveries from the Project.

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

828 (c) The United States reserves the right to all seepage and return flow water
829 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the
830 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United States
831 any right as seepage or return flow to water being used pursuant to this Contract for surface irrigation
832 or underground storage either being put to reasonable and beneficial use pursuant to this Contract

833 within the Contractor's Service Area by the Contractor or those claiming by, through, or under the
834 Contractor. For purposes of this subdivision, groundwater recharge, groundwater banking and all
835 similar groundwater activities will be deemed to be underground storage.

836 CONSTRAINTS ON THE AVAILABILITY OF WATER

837 13. (a) In its operation of the Project, the Contracting Officer will use all reasonable
838 means to guard against a Condition of Shortage in the quantity of water to be made available to the
839 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a Condition
840 of Shortage appears probable, the Contracting Officer will notify the Contractor of said determination
841 as soon as practicable.

842 (b) If there is a Condition of Shortage because of errors in physical operations of
843 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
844 taken by the Contracting Officer to meet legal obligations, including but not limited to obligations
845 pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of this Contract,
846 no liability shall accrue against the United States or any of its officers, agents, or employees for any
847 damage, direct or indirect, arising therefrom.

848 (c) The United States shall not execute contracts which together with this
849 Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000 acre-feet
850 per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That, subject to
851 subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water contracts shall not
852 prohibit the United States from entering into temporary contracts of one year or less in duration for
853 delivery of Project Water to other entities if such water is not necessary to meet the schedules as may

854 be submitted by all Friant Division Project Contractors entitled to receive Class 1 Water and/or Class
855 2 Water under their contracts. Nothing in this subdivision shall limit the Contracting Officer's ability
856 to take actions that result in the availability of new water supplies to be used for Project purposes and
857 allocating such new supplies; Provided, That the Contracting Officer shall not take such actions until
858 after consultation with the Friant Division Project Contractors.

859 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to this or
860 any other contract heretofore or hereafter entered into any Year unless and until the Contracting
861 Officer determines that the cumulative total quantity of Class 1 Water specified in subdivision (c) of
862 this Article of this Contract will be available for delivery in said Year. If the Contracting Officer
863 determines there is or will be a shortage in any Year in the quantity of Class 1 Water available for
864 delivery, the Contracting Officer shall apportion the available Class 1 Water among all Contractors
865 entitled to receive such water that will be made available at Friant Dam in accordance with the
866 following:

867 (1) A determination shall be made of the total quantity of Class 1 Water at
868 Friant Dam which is available for meeting Class 1 Water contractual commitments, the amount so
869 determined being herein referred to as the available supply.

870 (2) The total available Class 1 supply shall be divided by the Class 1 Water
871 contractual commitments, the quotient thus obtained being herein referred to as the Class 1
872 apportionment coefficient.

873 (3) The total quantity of Class 1 Water under Article 3 of this Contract
874 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of

875 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the respective
876 Year, but in no event shall such amount exceed the total quantity of Class 1 Water specified in
877 subdivision (a) of Article 3 of this Contract.

878 (e) If the Contracting Officer determines there is less than the quantity of Class 2
879 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3 of this
880 Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the Contracting
881 Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of subdivision (d) of
882 this Article of this Contract substituting the term "Class 2" for the term "Class 1."

883 (f) In the event that in any Year there is made available to the Contractor, by
884 reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article of
885 this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of Article
886 12 of this Contract, less than the quantity of water which the Contractor otherwise would be entitled
887 to receive hereunder, there shall be made an adjustment on account of the amounts already paid to the
888 Contracting Officer by the Contractor for Class 1 Water and Class 2 Water for said Year in
889 accordance with Article 11 of this Contract.

890 UNAVOIDABLE GROUNDWATER PERCOLATION

891 14. Omitted.

892 ACREAGE LIMITATION

893 15. (a) The Contractor has paid the Repayment Obligation, and notwithstanding any
894 Additional Capital Obligation that may later be established, the provisions of section 213(a) and (b)
895 of the RRA shall apply to lands in the Contractor's Service Area, with the effect that acreage

896 limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer apply to lands in
897 the Contractor's Service Area with respect to Water Delivered pursuant to this Contract.
898 Reclamation will conduct a final water district review for the purpose of determining compliance
899 with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA from the date of
900 the last water district review until the date when payment to Reclamation of the Repayment
901 Obligation was completed.

902 (b) Project Water to which the Contractor is entitled through a separate contract,
903 other than this Contract, that is subject to Federal Reclamation law, may be delivered to lands within
904 the Contractor's Service Area. Notwithstanding any Additional Capital Obligation that may later be
905 established, Project Water Delivered under this Contract may be mixed with Project Water Delivered
906 pursuant to a contract with the United States, other than this Contract, to which acreage limitations,
907 reporting, and the Full Cost pricing provisions of Federal Reclamation law apply without causing the
908 application of the acreage limitations, reporting, and the Full Cost pricing provisions of Federal
909 Reclamation law to the Water Delivered pursuant to this Contract; Provided, The terms and
910 conditions in such other contract shall continue to apply, and if such terms and conditions so require,
911 the lands to receive Project Water under such other contract shall be properly designated by the
912 Contractor and such Project Water is to be delivered in accordance with the RRA including any
913 applicable acreage limitations, reporting, and Full Cost pricing provisions.

914 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

915 16. (a) The parties agree that the delivery of water or the use of Federal facilities
916 pursuant to this Contract is subject to Federal Reclamation law, as amended and supplemented, and
917 the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

918 (b) The terms of this Contract are subject to the Settlement and the SJRRSA.
919 Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of the
920 Settlement and the SJRRSA.

921 PROTECTION OF WATER AND AIR QUALITY

922 17. (a) Project facilities used to make available and deliver water to the Contractor
923 shall be operated and maintained in the most practical manner to maintain the quality of the water at
924 the highest level possible as determined by the Contracting Officer: *Provided, That* the United States
925 does not warrant the quality of the water delivered to the Contractor and is under no obligation to
926 furnish or construct water treatment facilities to maintain or improve the quality of water delivered to
927 the Contractor.

928 (b) The Contractor shall comply with all applicable water and air pollution laws
929 and regulations of the United States and the State of California; and shall obtain all required permits
930 or licenses from the appropriate Federal, State, or local authorities necessary for the delivery of water
931 by the Contractor; and shall be responsible for compliance with all Federal, State, and local water
932 quality standards applicable to surface and subsurface drainage and/or discharges generated through
933 the use of Federal or Contractor facilities or project water provided by the Contractor within the
934 Contractor's Project Water Service Area.

935 (c) This article shall not affect or alter any legal obligations of the Secretary to
936 provide drainage or other discharge services.

937 WATER ACQUIRED BY THE CONTRACTOR
938 OTHER THAN FROM THE UNITED STATES

939 18. (a) Omitted.

940 (b) Notwithstanding any Additional Capital Obligation that may later be
941 established, water or water rights now owned or hereafter acquired by the Contractor other than from
942 the United States pursuant to this Contract and Irrigation Water furnished pursuant to the terms of
943 this Contract may be simultaneously transported through the same distribution facilities of the
944 Contractor without the payment of fees to the United States and without application of Federal

945 Reclamation law to Water Delivered pursuant to this Contract or to lands which receive Water
946 Delivered to Contractor pursuant to this Contract.

947 (c) Water or water rights now owned or hereafter acquired by the Contractor, other
948 than from the United States or adverse to the Project or its contractors (i.e., non-project water), may
949 be stored, conveyed and/or diverted through Project facilities, other than Friant Division Facilities,
950 subject to the completion of appropriate environmental documentation, with the approval of the
951 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
952 necessary, consistent with the following provisions:

953 (1) The Contractor may introduce non-project water into Project facilities
954 and deliver said water to lands within the Contractor's Service Area subject to payment to the United
955 States and/or to any applicable Operating Non-Federal Entity of an appropriate rate as determined by
956 the Contracting Officer. In addition, if electrical power is required to pump non-project water, the
957 Contractor shall be responsible for obtaining the necessary power and paying the necessary charges
958 therefor.

959 (2) Delivery of such non-project water in and through Project facilities
960 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as
961 determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to other
962 Project Contractors; (iii) interfere with the delivery of contractual water entitlements to any other
963 Project Contractors; (iv) interfere with the physical maintenance of the Project facilities; or (v) result
964 in the United States incurring any liability or unreimbursed costs or expenses thereby.

965 (3) Neither the United States nor the Operating Non-Federal Entity shall be
966 responsible for control, care or distribution of the non-project water before it is introduced into or
967 after it is delivered from the Project facilities. The Contractor hereby releases and agrees to defend
968 and indemnify the United States and the Operating Non-Federal Entity, and their respective officers,
969 agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting
970 from Contractor's diversion or extraction of non-project water from any source.

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

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

979 (d) Non-project water may be stored, conveyed and/or diverted through Friant
980 Division Facilities, subject to the prior completion of appropriate environmental documentation and
981 approval of the Contracting Officer without execution of a separate contract, consistent with
982 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be appropriate
983 by the Contracting Officer.

984

985 OPINIONS AND DETERMINATIONS

986 19. (a) Where the terms of this Contract provide for actions to be based upon the
987 opinion or determination of either party to this Contract, said terms shall not be construed as
988 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
989 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve
990 the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
991 unreasonable opinion or determination. Each opinion or determination by either party shall be
992 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect or
993 alter the standard of judicial review applicable under Federal law to any opinion or determination
994 implementing a specific provision of Federal law embodied in statute or regulation.

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

1000 COORDINATION AND COOPERATION

1001 20. (a) In order to further their mutual goals and objectives, the Contracting Officer
1002 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other
1003 affected Project Contractors, in order to improve the operation and management of the Project. The
1004 communication, coordination, and cooperation regarding operations and management shall include,
1005 but not limited to, any action which will or may materially affect the quantity or quality of Project

1006 Water supply, the allocation of Project Water supply, and Project financial matters including, but not
1007 limited to, budget issues. The communication, coordination, and cooperation provided for hereunder
1008 shall extend to all provisions of this Contract. Each party shall retain exclusive decision making
1009 authority for all actions, opinions, and determinations to be made by the respective party.

1010 (b) It is the intent of the Secretary to improve water supply reliability. To carry
1011 out this intent:

1012 (1) The Contracting Officer will, at the request of the Contractor, assist in
1013 the development of integrated resource management plans for the Contractor. Further, the
1014 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
1015 improve water supply, water quality, and reliability.

1016 (2) The Secretary will, as appropriate, pursue program and project
1017 implementation and authorization in coordination with Project Contractors to improve the water
1018 supply, water quality, and reliability of the Project for all Project purposes.

1019 (3) The Secretary will coordinate with Project Contractors and the State of
1020 California to seek improved water resource management.

1021 (4) The Secretary will coordinate actions of agencies within the
1022 Department of the Interior that may impact the availability of water for Project purposes.

1023 (5) The Contracting Officer shall periodically, but not less than annually,
1024 hold division level meetings to discuss Project operations, division level water management
1025 activities, and other issues as appropriate.

1026 (c) Without limiting the contractual obligations of the Contracting Officer
1027 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting Officer's
1028 ability to communicate, coordinate, and cooperate with the Contractor or other interested
1029 stakeholders or to make decisions in a timely fashion as needed to protect health, safety, physical
1030 integrity of structures or facilities, or the Contracting Officer's ability to comply with applicable
1031 laws.

1032 CHARGES FOR DELINQUENT PAYMENTS

1033 21. (a) The Contractor shall be subject to interest, administrative and penalty charges
1034 on delinquent installments or payments. When a payment is not received by the due date, the
1035 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
1036 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
1037 charge to cover additional costs of billing and processing the delinquent payment. When a payment
1038 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
1039 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
1040 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
1041 payment.

1042 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
1043 the Federal Register by the Department of the Treasury for application to overdue payments, or the
1044 interest rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation
1045 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due
1046 date and remain fixed for the duration of the delinquent period.

1047 (c) When a partial payment on a delinquent account is received, the amount
1048 received shall be applied, first to the penalty, second to the administrative charges, third to the
1049 accrued interest, and finally to the overdue payment.

1050 EQUAL EMPLOYMENT OPPORTUNITY

1051 22. During the performance of this Contract, the Contractor agrees as follows:

1052 (a) The Contractor will not discriminate against any employee or applicant for
1053 employment because of race, color, religion, sex, disability, or national origin. The Contractor will
1054 take affirmative action to ensure that applicants are employed, and that employees are treated during
1055 employment, without regard to their race, color, religion, sex, disability, or national origin. Such

1056 action shall include, but not be limited to the following: employment, upgrading, demotion, or
1057 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of
1058 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
1059 conspicuous places, available to employees and applicants for employment, notices to be provided by
1060 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

1061 (b) The Contractor will, in all solicitations or advertisements for employees placed by
1062 or on behalf of the Contractor, state that all qualified applicants will receive consideration for
1063 employment without regard to race, color, religion, sex, disability, or national origin.

1064 (c) The Contractor will send to each labor union or representative of workers with
1065 which it has a collective bargaining agreement or other contract or understanding, a notice, to be
1066 provided by the Contracting Officer, advising the labor union or workers' representative of the
1067 Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and
1068 shall post copies of the notice in conspicuous places available to employees and applicants for
1069 employment.

1070 (d) The Contractor will comply with all provisions of Executive Order No. 11246 of
1071 September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

1072 (e) The Contractor will furnish all information and reports required by Executive
1073 Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of
1074 Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the
1075 Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance
1076 with such rules, regulations, and orders.

1077 (f) In the event of the Contractor's noncompliance with the nondiscrimination clauses
1078 of this contract or with any of such rules, regulations, or orders, this contract may be canceled,
1079 terminated or suspended in whole or in part and the Contractor may be declared ineligible for further
1080 Government contracts in accordance with procedures authorized in Executive Order 11246 of
1081 September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in
1082 Executive Order 11246 of September 24, 1965 or by rule, regulation, or order of the Secretary of
1083 Labor, or as otherwise provided by law.

1084 (g) The Contractor will include the provisions of paragraphs (1) through (7) in every
1085 subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of
1086 Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such
1087 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
1088 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
1089 means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that
1090 in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor

1091 or vendor as a result of such direction, the Contractor may request the United States to enter into such
1092 litigation to protect the interests of the United States.

1093 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

1094 23. (a) The obligation of the Contractor to pay the United States as provided in this
1095 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation
1096 may be distributed among the Contractor's water users and notwithstanding the default of individual
1097 water users in their obligations to the Contractor.

1098 (b) The payment of charges becoming due hereunder is a condition precedent to
1099 receiving benefits under this Contract. The United States shall not make water available to the
1100 Contractor through Project facilities during any period in which the Contractor may be in arrears in
1101 the advance payment of water rates due the United States. The Contractor shall not furnish water
1102 made available pursuant to this Contract for lands or parties which are in arrears in the advance
1103 payment of water rates levied or established by the Contractor.

1104 (c) With respect to subdivision (b) of this Article of this Contract, the Contractor
1105 shall have no obligation to require advance payment for water rates which it levies.

1106 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1107 24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42
1108 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
1109 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as
1110 well as with their respective implementing regulations and guidelines imposed by the U.S.
1111 Department of the Interior and/or Bureau of Reclamation.

1112 (b) These statutes require that no person in the United States shall, on the grounds
1113 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the
1114 benefits of, or be otherwise subjected to discrimination under any program or activity receiving
1115 financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor
1116 agrees to immediately take any measures necessary to implement this obligation, including permitting
1117 officials of the United States to inspect premises, programs, and documents.

1118 (c) The Contractor makes this agreement in consideration of and for the purpose
1119 of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
1120 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including
1121 installment payments after such date on account of arrangements for Federal financial assistance
1122 which were approved before such date. The Contractor recognizes and agrees that such Federal

1123 assistance will be extended in reliance on the representations and agreements made in this Article,
1124 and that the United States reserves the right to seek judicial enforcement thereof.

1125 PRIVACY ACT COMPLIANCE

1126 25. Omitted.

1127 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1128 26. In addition to all other payments to be made by the Contractor pursuant to this
1129 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill
1130 and detailed statement submitted by the Contracting Officer to the Contractor for such specific items
1131 of direct cost incurred by the United States for work requested by the Contractor associated with this
1132 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
1133 procedures. All such amounts referred to in this Article of this Contract shall not exceed the amount
1134 agreed to in writing in advance by the Contractor. This Article of this Contract shall not apply to
1135 costs for routine contract administration.

1136 WATER CONSERVATION

1137 27. (a) Prior to the delivery of water provided from or conveyed through Federally
1138 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
1139 implementing an effective water conservation and efficiency program based on the Contractor's water
1140 conservation plan that has been determined by the Contracting Officer to meet the conservation and
1141 efficiency criteria for evaluating water conservation plans established under Federal law. The water
1142 conservation and efficiency program shall contain definite water conservation objectives, appropriate
1143 economically feasible water conservation measures, and time schedules for meeting those objectives.
1144 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's

1145 continued implementation of such water conservation program. In the event the Contractor's water
1146 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
1147 this Article of this Contract have not yet been determined by the Contracting Officer to meet such
1148 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the
1149 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently
1150 works with the Contracting Officer to obtain such determination at the earliest practicable date, and
1151 thereafter the Contractor immediately begins implementing its water conservation and efficiency
1152 program in accordance with the time schedules therein.

1153 (b) Should the amount of M&I Water Delivered pursuant to subdivision (a) of
1154 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the Contractor
1155 shall implement the Best Management Practices identified by the time frames issued by the
1156 California Urban Water Conservation Council for such M&I Water unless any such practice is
1157 determined by the Contracting Officer to be inappropriate for the Contractor.

1158 (c) The Contractor shall submit to the Contracting Officer a report on the status of
1159 its implementation of the water conservation plan on the reporting dates specified in the then-existing
1160 conservation and efficiency criteria established under Federal law.

1161 (d) At five (5) -year intervals, the Contractor shall revise its water conservation
1162 plan to reflect the then-existing conservation and efficiency criteria for evaluating water conservation
1163 plans established under Federal law and submit such revised water management plan to the
1164 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the

1165 water conservation plan meets Reclamation's then-existing conservation and efficiency criteria for
1166 evaluating water conservation plans established under Federal law.

1167 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall
1168 be described in the Contractor's water conservation plan.

1169 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1170 28. Except as specifically provided in Article 18 of this Contract, the provisions of this
1171 Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter
1172 acquired by the Contractor or any user of such water within the Contractor's Service Area. Any such
1173 water shall not be considered Project Water under this Contract. In addition, this Contract shall not
1174 be construed as limiting or curtailing any rights which the Contractor or any water user within the
1175 Contractor's Service Area acquires or has available under any other contract pursuant to Federal
1176 Reclamation law.

1177 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1178 29. (a) The O&M of a portion of the Project facilities which serve the Contractor, and
1179 responsibility for funding a portion of the costs of such O& M, have been transferred to the Operating
1180 Non-Federal Entity by separate agreement between the United States and the Operating Non-Federal
1181 Entity. That separate agreement shall not interfere with or affect the rights or obligations of the
1182 Contractor or the United States hereunder.

1183 (b) The Contracting Officer has previously notified the Contractor in writing that
1184 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the
1185 Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the Operating Non-

1186 Federal Entity, or to any successor approved by the Contracting Officer under the terms and
1187 conditions of the separate agreement between the United States and the Operating Non-Federal Entity
1188 described in subdivision (a) of this Article of this Contract, all rates, charges or assessments of any
1189 kind, including any assessment for reserve funds, which the Operating Non-Federal Entity or such
1190 successor determines, sets or establishes for (i) the O&M of the portion of the Project facilities
1191 operated and maintained by the Operating Non-Federal Entity or such successor, or (ii) the Friant
1192 Division's share of the operation, maintenance and replacement costs for physical works and
1193 appurtenances associated with the Tracy Pumping Plant, the Delta-Mendota Canal, the O'Neill
1194 Pumping/Generating Plant, the federal share of the O'Neill Forebay, the Mendota Pool, and the
1195 federal share of San Luis Unit joint use conveyance and conveyance pumping facilities. Such direct
1196 payments to the Operating Non-Federal Entity or such successor shall not relieve the Contractor of its
1197 obligation to pay directly to the United States the Contractor's share of the Project Rates and
1198 Charges, except to the extent the Operating Non-Federal Entity collects payments on behalf of the
1199 United States in accordance with the separate agreement identified in subdivision (a) of this Article of
1200 this Contract.

1201 (c) For so long as the O&M of any portion of the Project facilities serving the
1202 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1203 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1204 Contract representing the cost associated with the activity being performed by the Operating Non-
1205 Federal Entity or its successor.

1206 (d) In the event the O&M of the Project facilities operated and maintained by the
1207 Operating Non-Federal Entity is re-assumed by the United States during the term of this Contract, the
1208 Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a revised
1209 Exhibit "B" which shall include the portion of the Rates to be paid by the Contractor for Project
1210 Water under this Contract representing the O &M costs of the portion of such Project facilities which
1211 have been re-assumed. The Contractor shall, thereafter, in the absence of written notification from
1212 the Contracting Officer to the contrary, pay the Rates and Charges specified in the revised Exhibit
1213 "B" directly to the United States in compliance with Article 7 of this Contract.

1214 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1215 30. The expenditure or advance of any money or the performance of any obligation of the
1216 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1217 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1218 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1219 or allotted.

1220 BOOKS, RECORDS, AND REPORTS

1221 31. (a) The Contractor shall establish and maintain accounts and other books and
1222 records pertaining to administration of the terms and conditions of this Contract, including: the
1223 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
1224 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other
1225 matters that the Contracting Officer may require. Reports thereon shall be furnished to the
1226 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
1227 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right
1228 during office hours to examine and make copies of the other party's books and records relating to
1229 matters covered by this Contract.

1230 (b) Notwithstanding the provisions of subdivision (a) of this Article of this
1231 Contract, no books, records, or other information shall be requested from the Contractor by the
1232 Contracting Officer unless such books, records, or information are reasonably related to the

1233 administration or performance of this Contract. Any such request shall allow the Contractor a
1234 reasonable period of time within which to provide the requested books, records, or information.

1235 (c) At such time as the Contractor provides information to the Contracting Officer
1236 pursuant to subdivision (a) of this Article of this Contract, a copy of such information shall be
1237 provided to the Operating Non-Federal Entity.

1238 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1239 32. (a) The provisions of this Contract shall apply to and bind the successors and
1240 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1241 therein shall be valid until approved in writing by the Contracting Officer.

1242 (b) The assignment of any right or interest in this Contract by either party shall not
1243 interfere with the rights or obligations of the other party to this Contract absent the written
1244 concurrence of said other party.

1245 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1246 of any proposed assignment.

1247 SEVERABILITY

1248 33. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1249 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
1250 association or other form of organization whose primary function is to represent parties to Project
1251 contracts, brings an action in a court of competent jurisdiction challenging the legality or
1252 enforceability of a provision included in this Contract and said person, entity, association, or
1253 organization obtains a final court decision holding that such provision is legally invalid or
1254 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the

1255 parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final
1256 court decision identify by mutual agreement the provisions in this Contract which must be revised
1257 and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time
1258 periods specified above may be extended by mutual agreement of the parties. Pending the
1259 completion of the actions designated above, to the extent it can do so without violating any applicable
1260 provisions of law, the United States shall continue to make the quantities of Project Water specified
1261 in this Contract available to the Contractor pursuant to the provisions of this Contract which were not
1262 found to be legally invalid or unenforceable in the final court decision.

1263 RESOLUTION OF DISPUTES

1264 34. Should any dispute arise concerning any provisions of this Contract, or the parties'
1265 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
1266 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
1267 any matter to Department of Justice, the party shall provide to the other party thirty (30) days written
1268 notice of the intent to take such action; Provided, That such notice shall not be required where a delay
1269 in commencing an action would prejudice the interests of the party that intends to file suit. During
1270 the thirty (30) day notice period, the Contractor and the Contracting Officer shall meet and confer in
1271 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
1272 waive or abridge any right or remedy that the Contractor or the United States may have.

1273 OFFICIALS NOT TO BENEFIT

1274 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1275 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1276 manner as other water users or landowners.

1277

CHANGES IN CONTRACTOR'S SERVICE AREA

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1279
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36. (a) While this Contract is in effect, no change may be made in the Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

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(b) Within thirty (30) days of receipt of a request for such a change, the

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Contracting Officer will notify the Contractor of any additional information required by the

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Contracting Officer for processing said request, and both parties will meet to establish a mutually

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agreeable schedule for timely completion of the process. Such process will analyze whether the

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proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this

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Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this

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Contract or to pay for any Federally-constructed facilities for which the Contractor is responsible;

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and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition,

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the Contracting Officer shall comply with the National Environmental Policy Act and the Endangered

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Species Act. The Contractor will be responsible for all costs incurred by the Contracting Officer in

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this process, and such costs will be paid in accordance with Article 26 of this Contract.

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FEDERAL LAWS

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37. By entering into this Contract, the Contractor does not waive its rights to contest the

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validity or application in connection with the performance of the terms and conditions of this

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Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the

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terms and conditions of this Contract unless and until relief from application of such Federal law or

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regulation to the implementing provision of the Contract is granted by a court of competent

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jurisdiction.

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EMERGENCY RESERVE FUND

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38. The Contractor and Contracting Officer acknowledge that the requirements to

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establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of

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Friant Division Facilities is and will continue to be administered under Contract No. 8-07-20-X0356

1303

titled Agreement To Transfer The Operation, Maintenance And Replacement And Certain Financial

1304

And Administrative Activities Related To The Friant-Kern Canal And Associated Works, dated

1305

March 1, 1998 as amended, supplemented, assigned, or renewed.

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MEDIUM FOR TRANSMITTING PAYMENT

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39. (a) All payments from the Contractor to the United States under this contract

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shall be by the medium requested by the United States on or before the date payment is due. The

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required method of payment may include checks, wire transfers, or other types of payment specified

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by the United States.

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(b) Upon execution of the contract, the Contractor shall furnish the Contracting

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Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the

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Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the

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Contractor's relationship with the United States.

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NOTICES

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40. Any notice, demand, or request authorized or required by this Contract shall be

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deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered

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to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California

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93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of

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Directors of Lindmore Irrigation District, P.O. Box 908, Lindsay, California 93247. The designation

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of the addressee or the address may be changed by notice given in the same manner as provided in

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this Article of this Contract for other notices.

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CONFIRMATION OF CONTRACT

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41. The Contractor, after the execution of this Contract, shall promptly provide to the

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Contracting Officer a decree of a court of competent jurisdiction of the State of California,

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confirming the execution of this Contract. The Contractor shall furnish the United States a certified

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copy of the final decree, the validation proceedings, and all pertinent supporting records of the court

1328 approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and
1329 binding on the Contractor.

1330 CONTRACT DRAFTING CONSIDERATIONS

1331 42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20,
1332 subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31,
1333 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and
1334 Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the parties
1335 hereto, each of whom is sophisticated in the matters to which this Contract pertains, and no one party
1336 shall be considered to have drafted the stated Articles.
1337

1338 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1339 year first above written.