

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

CONTRACT BETWEEN THE UNITED STATES
AND
MADERA IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE FROM
HIDDEN UNIT AND
FOR FACILITIES REPAYMENT

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1 UNITED STATES
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6 AND
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8 PROVIDING FOR PROJECT WATER SERVICE FROM
9 HIDDEN UNIT AND
10 FACILITIES REPAYMENT
11

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

24 WITNESSETH, That

25 EXPLANATORY RECITALS

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

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

32 [2nd] WHEREAS, pursuant to Title II of the Flood Control Act of October 23, 1962 (76
33 Stat. 1180), and supporting documents, the United States constructed Hidden Dam on the Fresno
34 River (thereby creating Hensley Lake), hereinafter referred to as the Hidden Unit, which is operated
35 by the Corps of Engineers for flood control, recreation and other incidental uses; and

36 [3rd] WHEREAS, the United States and the Contractor entered into Contract Number 14-
37 06-200-4020A, as amended, providing the Contractor the right to the entire yield from the Hidden
38 Unit available for conservation purposes from August 5, 1962 through February 28, 1994; and

39 [4th] WHEREAS, the Contractor and the United States have, pursuant to subsection
40 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
41 interim renewal contract(s), identified as Contract Number (s) 14-06-200-4020A-IR2, IR3, IR4, and
42 IR5, which provided for the continued water service to Contractor from March 1, 1995 through
43 February 28, 2001, and subsequently entered into a long-term renewal contract, identified as Contract
44 Number 14-06-200-4020A-LTR1, which provided for continued water service to Contractor through
45 February 28, 2026, which was amended January 22, 2007, and is herein referred to as the "Existing
46 Contract"; and

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

49 without limitation the permits issued as the result of Decision 1407 by the California State Water
50 Resource Control Board pursuant to which the Contracting Officer develops, diverts, stores and
51 delivers Project Water stored or flowing through Hensley Lake in accordance with State and Federal
52 law for the benefit of the Contractor in the Hidden Unit 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 to the entire yield from the Hidden Unit available for conservation
82 purposes as described in the tenth (10th) Explanatory Recital; and

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

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

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

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

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

103 [17th] Omitted; and

104 [18th] Omitted; and

105 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
106 its obligations under the Existing Contract.

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

DEFINITIONS

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

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

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

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

(d) Omitted;

(e) Omitted;

(f) Omitted;

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

(h) "Contract Total" shall mean the amount of Project Water to which the Contractor is entitled under subdivision (a) of Article 3 of this Contract and is the stated share or

130 quantity of Water to which the Contractor will have a permanent right in accordance with the 1956
131 Act and the terms of this Contract, upon the Contractor's complete payment of the Repayment
132 Obligation, notwithstanding any Additional Capital Obligation that may later be established, which
133 right shall not be disturbed so long as the Contractor fulfills all of its obligations under this Contract;

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

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

140 (j2) "District Engineer" shall mean the District Engineer, United States Army
141 Corps of Engineers, or his authorized representative;

142 (k) "Eligible Lands" shall mean all lands to which Irrigation Water may be
143 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
144 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

145 (l) "Excess Lands" shall mean all lands in excess of the limitations contained in
146 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
147 Reclamation law;

148 (m) "Existing Capital Obligation" shall mean the remaining amount of construction
149 costs of the Contractor identified in the Central Valley Project Irrigation Water Rates and/or
150 Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as adjusted to reflect

151 payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A) of the SJRRSA. The
152 Contracting Officer has computed the Existing Capital Obligation in a manner consistent with the
153 SJRRSA and such amount is set forth in Exhibits “C-1” and “C-2”, incorporated herein by reference;

154 (n) “Financing Costs”, for purposes of computing the reduction of certain charges
155 as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference between the net
156 present value of the Existing Capital Obligation discounted using the full Treasury rate and the
157 Existing Capital Obligation discounted using one-half the Treasury Rate, as set forth in Section
158 10010(d)(3) of the SJRRSA;

159 (o) “Full Cost Rate” shall mean that water rate described in Sections 205(a)(3) or
160 202(3) of the RRA, whichever is applicable;

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

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

165 (r) “Irrigation Water” shall mean water made available from the Project that is
166 used primarily in the production of agricultural crops or livestock, including domestic use incidental
167 thereto, and watering of livestock. Irrigation water shall not include water used for the purposes such
168 as the watering of landscaping or pasture for animals (e.g., horses) which are kept for personal
169 enjoyment or water delivered to landholdings operated in units of less than five (5) acres unless the
170 Contractor establishes to the satisfaction of the Contracting Officer that the use of the water delivered
171 to any such landholding is a use described in this subdivision of this Article of this Contract;

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

174 (t) Omitted;

175 (u) Omitted.

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

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

186 (x) Omitted;

187 (y) "Other Water" shall mean water from the Project other than Irrigation Water as
188 described in subdivision (r) of this Article of this Contract, which is used for a purpose that is
189 considered to be an irrigation use pursuant to State law such as the watering of landscaping or pasture
190 for animals (e.g., horse) which are kept for the personal enjoyment. For purposes of this Contract,
191 Other Water shall be paid for at Rates and Charges identical to those established for M&I water
192 pursuant to the then-existing M&I Ratesetting Policy;

193 (y2) "Prior-Rights Water" shall mean that portion of the inflow to Hensley Lake
194 which flows through or is released from Hidden Dam in recognition of prior downstream Fresno
195 River water rights of the Contractor and others, subject to any necessary new water rights permit or
196 permit revisions and in accordance with any applicable agreements relating to the operation of the
197 Hidden Unit and approved by the Contracting Officer and the State Water Resources Control Board,
198 as necessary;

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

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

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

207 (cc) "Rates" shall mean the payments determined annually by the Contracting
208 Officer in accordance with the then-existing applicable water ratesetting policies for the Project, as
209 described in subdivision (a) of Article 7 of this Contract and illustrated in Exhibit "B", attached
210 hereto;

211 (dd) Omitted;

212 (ee) "Repayment Obligation", as provided in subdivision (a)(2)(A) of Article 7 of
213 this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by one-half of

214 the Treasury rate and computed consistent with the provisions of Section 10010(3)(A) of the
215 SJRRSA to be paid as either a lump sum payment by January 31, 2011 or in approximately equal
216 annual installments by January 31, 2014;

217 (ff) "Secretary" shall mean the Secretary of the Interior, a duly appointed
218 successor, or an authorized representative acting pursuant to any authority of the Secretary and
219 through any agency of the Department of the Interior;

220 (gg) "Settlement" shall mean the Stipulation of Settlement dated September 13,
221 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued by
222 the Court pursuant to the terms and conditions of the Settlement in Natural Resources Defense
223 Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

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

226 (ii) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for
227 use by the Contractor at Hidden Dam, other than Prior-Rights Water, and for pricing purposes shall
228 be 24,000 acre-feet per Year;

229 (jj) Omitted;

230 (kk) Omitted;

231 (ll) Omitted;

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

234 EFFECTIVE DATE OF CONTRACT

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

245 (b) Upon complete payment of the Repayment Obligation by the Contractor, and
246 notwithstanding any Additional Capital Obligation that may later be established, the Tiered Pricing
247 Component as that term is utilized in this Contract, the acreage limitations, reporting, and Full Cost
248 pricing provisions of Federal Reclamation law, and subdivisions (k), (l), (o) through (q), (s), and (v)
249 of Article 1, subdivisions (a)(2)(A), (l)(1), (l)(2), and (l)(3) of Article 7, Article 14, subdivision (a) of
250 Article 18, and Article 25, all of this Contract, shall no longer be applicable to the Contractor. Upon
251 complete payment of the Repayment Obligation by the Contractor, and notwithstanding any
252 Additional Capital Obligation that may later be established, the terms of this Contract shall be as
253 provided in the restated contract attached hereto as Exhibit "E", which has been prepared solely as a
254 matter of administrative convenience. Exhibit "E" makes no substantive revisions other than those
255 required by this subdivision of this Article of this Contract. Accordingly, upon complete payment of

256 the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation
257 that may later be established, the parties shall refer to Exhibit “E” as their entire agreement under this
258 Contract.

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

263 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

264 3. (a) During each Year, consistent with all applicable State water rights, permits,
265 and licenses, Federal law, the Settlement including the SJRRSA, and subject to the provisions set
266 forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make available for delivery
267 to the Contractor the entire quantity of Project Water from the Hidden Unit for irrigation purposes.
268 The quantity of Water Delivered to the Contractor in accordance with this subdivision shall be paid
269 for pursuant to the provisions of Article 7 of this Contract.

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

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

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

294 (e) The Contractor, through this Contract, shall comply with requirements
295 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation regarding
296 the execution of the Existing Contract undertaken pursuant to Section 7 of the Endangered Species

297 Act of 1973, as amended , as well as the requirements of any other biological opinions applicable to
298 Project Water delivery under this Contract, that are within the Contractor's legal authority to
299 implement. The Contractor shall comply with the limitations or requirements imposed by
300 environmental documentation applicable to the Contractor and within its legal authority to implement
301 regarding specific activities. Nothing herein shall be construed to prevent the Contractor from
302 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
303 biological opinion or other environmental documentation referred to in this Article of this Contract.

304 (f) Omitted.

305 (g) Omitted.

306 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
307 State law to the reasonable and beneficial use of the Contract Total pursuant to this Contract shall not
308 be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract. Nothing
309 in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under
310 Article 12 or Article 13 of this Contract.

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

315 (j) The Contracting Officer shall make reasonable efforts to protect the water
316 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to provide
317 the water available under this Contract. The Contracting Officer shall not object to participation by

318 the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings
319 related to the water rights and other rights described in the fifth (5th) Explanatory Recital of this
320 Contract; Provided however, That the Contracting Officer retains the right to object to the substance
321 of the Contractor's position in such a proceeding. Provided further, that in such proceedings the
322 Contracting Officer shall recognize the Contractor has a legal right under the terms of this Contract to
323 use Project Water.

324 (k) Omitted.

325 (l) Omitted.

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

330 (n) Omitted.

331 (o) Omitted.

332 RESERVOIR OPERATION – USE AND SALE OF WATER

333 4. (a) At the request of the Contractor, pursuant to the terms and conditions of this
334 Contract, the United States, acting through the District Engineer, shall store, regulate, and/or release
335 all flows of Fresno River water at the Hidden Unit subject to the regulation of the Hidden Unit for
336 flood control, as conclusively determined by the District Engineer, and further subject to Prior-Rights
337 Water releases and the maintenance of a minimum pool of five thousand (5,000) acre-feet of water in
338 Hensley Lake for recreational and incidental uses.

339 (b) Project Water delivered to the Contractor pursuant to this Contract shall be
340 used as Irrigation Water or Other Water only and shall not be sold or otherwise disposed of for use
341 outside the Contractor's Service Area without the written approval of the Contracting Officer.

342 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

343 5. (a) Project Water delivered pursuant to this Contract shall be delivered to the
344 Contractor at Hidden Dam.

345 (b) Omitted.

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

352 (d) Project Water delivered to the Contractor pursuant to this Contract shall be
353 measured and recorded with equipment furnished, installed, operated, and maintained by the United
354 States at the point of delivery established pursuant to subdivision (a) of this Article of this Contract.
355 Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause to
356 be investigated, the accuracy of such measurements and shall take any necessary steps to adjust any
357 errors appearing therein. For any period of time when accurate measurements have not been made,
358 the Contracting Officer shall consult with the Contractor prior to making a final determination of the
359 quantity delivered for that period of time.

360 (e) The Contracting Officer shall not be responsible for the control, carriage,
361 handling, use, disposal, or distribution of Project Water delivered to the Contractor pursuant to this
362 Contract beyond the delivery point specified in subdivision (a) of this Article of this Contract. The
363 Contractor shall indemnify the United States, its officers, employees, agents, and assigns on account
364 of damage or claim of damage of any nature whatsoever for which there is legal responsibility,
365 including property damage, personal injury, or death arising out of or connected with the control,
366 carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery point,
367 except for any damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any
368 of its officers, employees, agents, or assigns, with the intent of creating the situation resulting in any
369 damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees,
370 agents, or assigns; (iii) negligence of the Contracting Officer or any of its officers, employees, agents,
371 or assigns; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated
372 by the United States.

373 (f) The Contractor shall maintain a surface water measurement program
374 satisfactory to the Contracting Officer to provide for the operation of the Hidden Unit facilities
375 without interference to established rights including correlative rights easterly of the Eastside-
376 Chowchilla Canal Bypass and keep records of data obtained from such program satisfactory to the
377 Contracting Officer.

378 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

379 6. (a) The Contractor has established a measurement program satisfactory to the
380 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's

381 Service Area is measured at each agricultural turnout; and Other Water delivered by the Contractor is
382 measured at each service connection. The water measuring devices or water measuring methods of
383 comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be
384 responsible for installing, operating, and maintaining and repairing all such measuring devices and
385 implementing all such water measuring methods at no cost to the United States. The Contractor shall
386 use the information obtained from such water measuring devices or water measuring methods to
387 ensure its proper management of the water, to bill water users for water delivered by the Contractor;
388 and, if applicable, to record water delivered as Other Water. Nothing herein contained, however,
389 shall preclude the Contractor from establishing and collecting any charges, assessments, or other
390 revenues authorized by California law.

391 (b) To the extent the information has not otherwise been provided, upon execution
392 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
393 the measurement devices or water measuring methods being used or to be used to implement
394 subdivision (a) of this Article of this Contract and identifying the agricultural turnouts and the Other
395 Water service connections or alternative measurement programs approved by the Contracting Officer,
396 at which such measurement devices or water measuring methods are being used, and, if applicable,
397 identifying the locations at which such devices and/or methods are not yet being used including a
398 time schedule for implementation at such locations. The Contracting Officer shall advise the
399 Contractor in writing within sixty (60) days as to the adequacy of, and necessary modifications, if
400 any, of the measuring devices or water measuring methods identified in the Contractor's report and if
401 the Contracting Officer does not respond in such time, they shall be deemed adequate. If the

402 Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate, the
403 parties shall within sixty (60) days following the Contracting Officer's response, negotiate in good
404 faith the earliest practicable date by which the Contractor shall modify said measuring devices and/or
405 measuring methods as required by the Contracting Officer to ensure compliance with subdivision (a)
406 of this Article of this Contract.

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

410 (d) The Contractor shall inform the Contracting Officer and the State of California
411 in writing by April 30 of each Year of the annual volume of Irrigation Water and Other Water
412 delivered within the Contractor's Service Area during the previous Year.

413 (e) Omitted.

414 RATES, METHOD OF PAYMENT FOR WATER,
415 AND ACCELERATED REPAYMENT OF FACILITIES

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

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

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

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

431 (A) The amount due and payable to the United States, pursuant to
432 the SJRRSA, shall be the Repayment Obligation. The Repayment Obligation has been computed by
433 the Contracting Officer in a manner consistent with the SJRRSA and is set forth, both as a lump sum
434 payment payable by January 31, 2011 and as four (4) approximately equal annual installments, which
435 amounts together with the manner in which such amounts were calculated are set forth in Exhibits
436 "C-1" and "C-2". The Repayment Obligation is due in lump sum by January 31, 2011 or in
437 approximate equal annual installments by January 31, 2014, as provided by the SJRRSA. The
438 Contractor must provide appropriate notice to the Contracting Officer in writing not later than thirty
439 (30) days prior to January 31, 2011 if electing to repay the amount due using the lump sum
440 alternative. If such notice is not provided by such date, the Contractor shall be deemed to have
441 elected the installment payment alternative, in which case, the first such payment shall be made no
442 later than May 1, 2011, the second payment shall be made no later than the first anniversary of the
443 first payment date, the third payment shall be made no later than the second anniversary of the first
444 payment date, and the final payment shall be made no later than January 31, 2014. If the installment

445 payment option is elected by the Contractor, the Contractor may pre-pay the remaining portion of the
446 Repayment Obligation by giving the Contracting Officer sixty (60) days written notice, in which
447 case, the Contracting Officer shall re-compute the remaining amount due to reflect the pre-payment
448 using the same methodology as was used to compute the initial annual installment payment amount,
449 which is illustrated in Exhibit “C-2”. Upon complete payment of the Repayment Obligation by the
450 Contractor, and notwithstanding any Additional Capital Obligation that may later be established, the
451 Contractor shall be fully and permanently released from any obligation to pay and shall be deemed to
452 have fully satisfied, the Existing Capital Obligation.

453 (B) Project construction costs or other capitalized costs attributable
454 to capital additions to the Project incurred after the effective date of this Contract or that are not
455 reflected in the schedules referenced in Exhibits “C-1” and “C-2” and properly assignable to the
456 Contractor, shall be repaid as prescribed by the SJRRSA without interest except as required by law.
457 Consistent with Federal Reclamation law, interest shall continue to accrue on the M&I portion of
458 unpaid Project construction costs or other capitalized cost assigned to the Contractor until such costs
459 are paid. Increases or decreases in Project construction costs or other capitalized costs assigned to the
460 Contractor caused solely by annual adjustment of Project construction costs or other capitalized costs
461 assigned to each CVP contractor by the Secretary shall not be considered in determining the amounts
462 to be paid pursuant to this subdivision (a)(2)(B), but will be considered under subdivision (b) of this
463 Article. A separate repayment agreement shall be established by the Contractor and the Contracting
464 Officer to accomplish repayment of all additional Project construction costs or other capitalized costs
465 assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the following:

466 (1) If the collective annual Project construction costs or

467 other capitalized costs that are incurred after the effective date of this Contract and properly

468 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly

469 assignable to the Contractor shall be repaid in not more than five (5) years after notification of the

470 allocation. This amount is the result of a collective annual allocation of Project construction costs to

471 the contractors exercising contract conversions; Provided, That the reference to the amount of

472 \$5,000,000 shall not be a precedent in any other context.

473 (2) If the collective annual Project construction costs or

474 other capitalized costs that are incurred after the effective date of this Contract and properly

475 assignable to the contractors are \$5,000,000 or greater, then the portion of such costs properly

476 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law. This

477 amount is the result of a collective annual allocation of Project construction costs to the contractors

478 exercising contract conversions; Provided, That the reference to the amount of \$5,000,000 shall not

479 be a precedent in any other context.

480 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost

481 allocation by the Secretary upon completion of the construction of the Central Valley Project, the

482 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any reallocation

483 of Project construction costs or other capitalized costs assigned to the Contractor that may have

484 occurred between the determination of Contractor's Existing Capital Obligation and the final cost

485 allocation. In the event that the final cost allocation, as determined by the Secretary, indicates that

486 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are greater

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

498 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the
499 Contractor an estimate of the Charges for Project Water that will be applied to the period October 1,
500 of the current Calendar Year, through September 30, of the following Calendar Year, and the basis
501 for such estimate. The Contractor shall be allowed not less than two (2) months to review and
502 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
503 Officer shall notify the Contractor in writing of the Charges to be in effect during the period October
504 1 of the current Calendar Year, through September 30 of the following Calendar Year, and such
505 notification shall revise Exhibit "B". Charges shall be subject to reduction consistent with the
506 SJRRSA based upon the average annual delivery amount agreed to by the Contracting Officer and the
507 Contractor.

508 (1) Upon complete payment of the Repayment Obligation by the
509 Contractor, and notwithstanding any Additional Capital Obligation that may later be established, for
510 the years 2020 through 2039 inclusive, outstanding or future obligations of the Contractor shall be
511 reduced consistent with Section 10010(d)(2) of the SJRRSA. The amount of such reduction in
512 outstanding or future obligations of the Contractor after October 1, 2010 has been computed by the
513 Contracting Officer, and as computed, such amount is set forth in Exhibit “D”.

514 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall make
515 available to the Contractor an estimate of the Rates and Tiered Pricing Component for Project Water
516 for the following Year and the computations and cost allocations upon which those Rates are based.
517 The Contractor shall be allowed not less than two (2) months to review and comment on such
518 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer
519 shall provide the Contractor with the final Rates and Tiered Pricing Component to be in effect for the
520 upcoming Year, and such notification shall revise Exhibit “B”. The O&M component of the Rate
521 may be reduced as provided in the SJRRSA.

522 (e) Before March 1 and again before July 1 of each Year, the Contractor shall pay
523 to the United States, at the Rates and Charges provided in subdivision (a) of this Article of this
524 Contract, for one-half (1/2) of the Delivered Water (i.e. 12,000 acre-feet) regardless of the quantity of
525 Irrigation Water and Other Water actually made available to the Contractor during the Year.

526 (f) Omitted.

527 (g) Omitted.

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

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

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

543 (k) The parties acknowledge and agree that the efficient administration of this
544 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
545 policies, and procedures used for establishing Rates, Charges, Tiered Pricing Components, and/or for
546 making and allocating payments, other than those set forth in this Article of this Contract, may be in
547 the mutual best interest of the parties, it is expressly agreed that the parties may enter into

548 agreements to modify the mechanisms, policies, and procedures for any of those purposes while this
549 Contract is in effect without amending this Contract.

550 (1) (1) For tiered pricing calculation purposes, the amount of Delivered Water
551 in excess of eighty percent (80%) but less than or equal to ninety percent (90%) of Water Delivered
552 shall remain fixed at 2,400 acre-feet per Year and the applicable Tiered Pricing Component on this
553 2,400 acre-feet shall equal one-half of the difference between the Rate established under subdivision
554 (a) of this Article of this Contract and the Irrigation Full Cost Water Rate, or M&I Full Cost Water
555 Rate, whichever is applicable. Likewise, the amount of Delivered Water in excess of ninety percent
556 (90%) of Water Delivered shall remain fixed at 2,400 acre-feet per Year and the applicable Tiered
557 Pricing Component on this 2,400 acre-feet shall equal the difference between (i) the Rate established
558 under subdivision (a) of this Article of this Contract and (ii) the Irrigation Full Cost Water Rate or
559 M&I Full Cost Water Rate, whichever is applicable. Before July 1 of each Year the Contractor shall
560 make payment to the United States equal to the sum of the multiplication products of the applicable
561 Tiered Pricing Component and such 2,400 acre-feet amounts.

562 (2) Subject to the Contracting Officer's written approval, the Contractor
563 may request and receive an exemption from such Tiered Pricing Components for Project Water
564 delivered pursuant to this Contract to produce a crop which the Contracting Officer determines will
565 provide significant and quantifiable habitat values for waterfowl in fields where the water is used and
566 the crops are produced; Provided, That the exemption from the Tiered Pricing Components for
567 Irrigation Water shall apply only if such habitat values can be assured consistent with the purposes of

568 CVPIA through binding agreements executed with or approved by the Contracting Officer prior to
569 use of such water.

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

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

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

586 (o) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting
587 Officer is authorized to adjust determinations of ability to pay every five (5) years.

588

589 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

593 RECOVERED WATER ACCOUNT

594 9. Omitted.

595 SALES, TRANSFERS, AND EXCHANGES OF WATER

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

607 (b) Omitted.

608 (c) Omitted.

609 (d) Omitted.

610 (e) Omitted

611 (f) Omitted.

612 (1) Omitted.

613 (2) Omitted.

614 (3) Omitted.

615 (4) Omitted.

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

623 APPLICATION OF PAYMENTS AND ADJUSTMENTS

624 11. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
625 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
626 the Contractor arising out of this Contract then due and payable. Overpayments of more than One
627 Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any
628 amount of such overpayment, at the option of the Contractor, may be credited against amounts to
629 become due to the United States by the Contractor. With respect to overpayment, such refund or
630 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to have

631 the right to the use of any of the Project Water supply provided for herein. All credits and refunds of
632 overpayments shall be made within thirty (30) days of the Contracting Officer obtaining direction as
633 to how to credit or refund such overpayment in response to the notice to the Contractor that it has
634 finalized the accounts for the Year in which the overpayment was made.

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

640 TEMPORARY REDUCTIONS—RETURN FLOWS

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

645 (b) The Contracting Officer may temporarily discontinue or reduce the quantity of
646 Project Water delivered to the Contractor pursuant to this Contract as herein provided for the
647 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project
648 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far
649 as feasible the Contracting Officer will give the Contractor due notice in advance of such temporary
650 discontinuance or reduction, except in case of emergency, in which case no notice need be given;
651 Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in

652 such service. Upon resumption of service after such reduction or discontinuance, and if requested by
653 the Contractor, the United States will, if possible, deliver the quantity of Project Water which would
654 have been delivered hereunder in the absence of such discontinuance or reduction.

655 (c) The United States reserves the right to all seepage and return flow water
656 derived from Project Water delivered to the Contractor pursuant to this Contract which escapes or is
657 discharged beyond the Contractor's Service Area; Provided, That this shall not be construed as
658 claiming for the United States any right as seepage or return flow to water being used pursuant to this
659 Contract for surface irrigation or underground storage either being put to reasonable and beneficial
660 use pursuant to this Contract within the Contractor's Service Area by the Contractor or those
661 claiming by, through, or under the Contractor. For purposes of this subdivision, groundwater
662 recharge, groundwater banking and all similar groundwater activities will be deemed to be
663 underground storage.

664 CONSTRAINTS ON THE AVAILABILITY OF WATER

665 13. If there is a reduction in total water supply because of errors in physical operations of
666 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
667 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a)
668 of Article 19 of this Contract, no liability shall accrue against the United States or any of its officers,
669 agents, or employees for any damage, direct or indirect, arising therefrom.

670 UNAVOIDABLE GROUNDWATER PERCOLATION

671 14. To the extent applicable, the Contractor shall not be deemed to have delivered
672 Irrigation Water to Excess Lands and Ineligible Lands within the meaning of this Contract if such

673 lands are irrigated with groundwater that reaches the underground strata as an unavoidable result of
674 the delivery of Irrigation Water by the Contractor to Eligible Lands.

675 ACREAGE LIMITATION

676 15. (a) Notwithstanding the application of the acreage limitation provisions to
677 activities referred to in subdivision (b) of this Article, subdivision (a) of Article 16, and Article 18 of
678 this Contract, upon complete payment of the Repayment Obligation by the Contractor, and
679 notwithstanding any Additional Capital Obligation that may later be established, the provisions of
680 section 213(a) and (b) of the RRA shall apply to lands in the Contractor's Service Area, with the
681 effect that acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer
682 apply to lands in the Contractor's Service Area with respect to Project Water delivered pursuant to
683 this Contract. Upon receiving the complete payment of the Repayment Obligation from the
684 Contractor, Reclamation will conduct a final water district review for the purpose of determining
685 compliance with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA from
686 the date of the last water district review until the date when payment to Reclamation of the
687 Repayment Obligation is completed.

688 (b) Project Water now owned or hereafter acquired by the Contractor through a
689 separate contract, other than this Contract, that is subject to Federal Reclamation law, may be
690 delivered to lands within the Contractor's Service Area. Upon complete payment of the Repayment
691 Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later
692 be established, Project Water delivered under this Contract may be mixed with Project Water
693 delivered pursuant to a contract with the United States, other than this Contract, to which acreage

694 limitations, reporting, and the Full Cost pricing provisions of Federal Reclamation law apply without
695 causing the application of the acreage limitations, reporting, and the Full Cost pricing provisions of
696 Federal Reclamation law to the Project Water delivered pursuant to this Contract; Provided, The
697 terms and conditions in such other contract shall continue to apply, and if such terms and conditions
698 so require, the lands to receive Project Water under such other contract shall be properly designated
699 by the Contractor and such Project Water is to be delivered in accordance with the RRA including
700 any applicable acreage limitations, reporting, and the Full Cost pricing provisions.

701 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

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

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

709 PROTECTION OF WATER AND AIR QUALITY

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

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

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

725 WATER ACQUIRED BY THE CONTRACTOR
726 OTHER THAN FROM THE UNITED STATES

727 18. (a) Until complete payment of the Repayment Obligation by the Contractor, and
728 notwithstanding any Additional Capital Obligation that may later be established, water or water rights
729 now owned or hereafter acquired by the Contractor other than from the United States and Irrigation
730 Water furnished pursuant to the terms of this Contract may be simultaneously transported through the
731 same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for
732 commingling Irrigation Water and non-project water were constructed without funds made available
733 pursuant to Federal Reclamation law, the acreage limitations, reporting, and Full Cost pricing
734 provisions of Federal Reclamation law will be applicable only to the Landholders of lands which
735 receive Irrigation Water; (ii) the eligibility of land to receive Irrigation Water must be established
736 through the certification requirements as specified in the Acreage Limitation Rules and Regulations
737 (43 CFR Part 426); and (iii) the water requirements of Eligible Lands within the Contractor's Service
738 Area can be established and the quantity of Irrigation Water to be utilized is less than or equal to the
739 quantity necessary to irrigate such Eligible Lands. The Contractor and the Contracting Officer
740 acknowledge that the Contractor's distribution system that was constructed with funds made
741 available pursuant to Federal Reclamation law was, prior to effective date of this Contract, repaid in
742 full but title to the facilities has not been transferred to the Contractor. As such, when such facilities
743 are utilized for commingling Irrigation Water and non-project water, the acreage limitations,

744 reporting, and Full Cost pricing provisions of Federal Reclamation law will be applicable only to the
745 Landholders of lands which receive Irrigation Water.

746 (b) Upon complete payment of the Repayment Obligation by the Contractor, and
747 notwithstanding any Additional Capital Obligation that may later be established, water or water rights
748 now owned or hereafter acquired by the Contractor other than from the United States pursuant to this
749 Contract and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously
750 transported through the same distribution facilities of the Contractor without the payment of fees to
751 the United States and without application of Federal Reclamation law to Project Water delivered
752 pursuant to this Contract or to lands which receive Project Water delivered to Contractor pursuant to
753 this Contract.

754 (c) Water or water rights now owned or hereafter acquired by the Contractor, other
755 than from the United States or adverse to the Project or its contractors (i.e., non-project water), may
756 be stored, conveyed and/or diverted through Project facilities, other than Hidden Unit facilities,
757 subject to the completion of appropriate environmental documentation, with the approval of the
758 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
759 necessary, consistent with the following provisions:

760 (1) The Contractor may introduce non-project water into Project facilities
761 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,
762 subject to payment to the United States of an appropriate rate as determined by the Contracting
763 Officer. In addition, if electrical power is required to pump non-project water, the Contractor shall be
764 responsible for obtaining the necessary power and paying the necessary charges therefor.

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

771 (3) The United States shall not be responsible for control, care or
772 distribution of the non-project water before it is introduced into or after it is delivered from the
773 Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United
774 States and its officers, agents, and employees, from any claim for damage to persons or property,
775 direct or indirect, resulting from Contractor's diversion or extraction of non-project water from any
776 source.

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

780 (5) After Project purposes are met, as determined by the Contracting
781 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of
782 the facilities declared to be available by the Contracting Officer for conveyance and transportation of
783 non-project Water prior to any such remaining capacity being made available to non-project
784 contractors.

785 (d) Non-project water may be stored, conveyed and/or diverted through Hidden
786 Unit facilities, subject to the prior completion of appropriate environmental documentation and
787 approval of the Contracting Officer without execution of a separate contract, consistent with
788 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be appropriate
789 by the Contracting Officer.

790 OPINIONS AND DETERMINATIONS

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

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

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COORDINATION AND COOPERATION

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

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

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

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

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

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

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

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

838 CHARGES FOR DELINQUENT PAYMENTS

839 21. (a) The Contractor shall be subject to interest, administrative and penalty charges
840 on delinquent installments or payments. When a payment is not received by the due date, the
841 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
842 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
843 charge to cover additional costs of billing and processing the delinquent payment. When a payment
844 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
845 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
846 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
847 payment.

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

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

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EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

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

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

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

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

890 (g) The Contractor will include the provisions of paragraphs (1) through (7) in every
891 subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of
892 Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such
893 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
894 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
895 means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that
896 in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor
897 or vendor as a result of such direction, the Contractor may request the United States to enter into such
898 litigation to protect the interests of the United States.

899 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

912 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

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

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

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

931 PRIVACY ACT COMPLIANCE

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

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

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

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

950 (e) The Contractor shall forward promptly to the System Manager each proposed
951 denial of access under 43 CFR 2.64; and each request for amendment of records filed under
952 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System Manager with
953 information and records necessary to prepare an appropriate response to the requester. These
954 requirements do not apply to individuals seeking access to their own certification and reporting forms
955 filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the Privacy
956 Act as a basis for the request.

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958 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

967 WATER CONSERVATION

968 27. (a) Prior to the delivery of water provided from or conveyed through Federally
969 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
970 implementing an effective water conservation and efficiency program based on the Contractor's water
971 conservation plan that has been determined by the Contracting Officer to meet the conservation and
972 efficiency criteria for evaluating water conservation plans established under Federal law. The water
973 conservation and efficiency program shall contain definite water conservation objectives, appropriate
974 economically feasible water conservation measures, and time schedules for meeting those objectives.
975 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
976 continued implementation of such water conservation program. In the event the Contractor's water
977 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
978 this Article of this Contract have not yet been determined by the Contracting Officer to meet such

979 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the
980 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently
981 works with the Contracting Officer to obtain such determination at the earliest practicable date, and
982 thereafter the Contractor immediately begins implementing its water conservation and efficiency
983 program in accordance with the time schedules therein.

984 (b) Omitted.

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

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

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

996 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

997 28. Except as specifically provided in Article 18 of this Contract, the provisions of this
998 Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter
999 acquired by the Contractor or any user of such water within the Contractor's Service Area, including,

1000 without limitation, Prior-Rights Water. Any such water shall not be considered Project Water under
1001 this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights
1002 which the Contractor or any water user within the Contractor's Service Area acquires or has available
1003 under any other contract pursuant to Federal Reclamation law.

1004 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1005 29. Omitted.

1006 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1007 30. The expenditure or advance of any money or the performance of any obligation of the
1008 United States under this Contract shall be contingent upon appropriation or allotment of funds.
1009 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
1010 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
1011 or allotted.

1012 BOOKS, RECORDS, AND REPORTS

1013 31. (a) The Contractor shall establish and maintain accounts and other books and
1014 records pertaining to administration of the terms and conditions of this Contract, including: the
1015 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
1016 the water users' land-use (crop census), land ownership, land-leasing and water use data; and other
1017 matters that the Contracting Officer may require. Reports thereon shall be furnished to the
1018 Contracting Officer in such form and on such date or dates as the Contracting Officer may require.
1019 Subject to applicable Federal laws and regulations, each party to this Contract shall have the right
1020 during office hours to examine and make copies of the other party's books and records relating to
1021 matters covered by this Contract.

1022 (b) Notwithstanding the provisions of subdivision (a) of this Article of this
1023 Contract, no books, records, or other information shall be requested from the Contractor by the
1024 Contracting Officer unless such books, records, or information are reasonably related to the
1025 administration or performance of this Contract. Any such request shall allow the Contractor a
1026 reasonable period of time within which to provide the requested books, records, or information.

1027 (c) Omitted.

1028 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1029 32. (a) The provisions of this Contract shall apply to and bind the successors and
1030 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1031 therein shall be valid until approved in writing by the Contracting Officer.

1032 (b) The assignment of any right or interest in this Contract by either party shall not
1033 interfere with the rights or obligations of the other party to this Contract absent the written
1034 concurrence of said other party.

1035 (c) The Contracting Officer shall not unreasonably condition or withhold approval
1036 of any proposed assignment.

1037 SEVERABILITY

1038 33. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1039 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
1040 association or other form of organization whose primary function is to represent parties to Project
1041 contracts, brings an action in a court of competent jurisdiction challenging the legality or
1042 enforceability of a provision included in this Contract and said person, entity, association, or
1043 organization obtains a final court decision holding that such provision is legally invalid or
1044 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
1045 parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final
1046 court decision identify by mutual agreement the provisions in this Contract which must be revised
1047 and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time
1048 periods specified above may be extended by mutual agreement of the parties. Pending the

1049 completion of the actions designated above, to the extent it can do so without violating any applicable
1050 provisions of law, the United States shall continue to make the quantities of Project Water specified
1051 in this Contract available to the Contractor pursuant to the provisions of this Contract which were not
1052 found to be legally invalid or unenforceable in the final court decision.

1053 RESOLUTION OF DISPUTES

1054 34. Should any dispute arise concerning any provisions of this Contract, or the parties'
1055 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
1056 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
1057 any matter to Department of Justice, the party shall provide to the other party thirty (30) days written
1058 notice of the intent to take such action; Provided, That such notice shall not be required where a delay
1059 in commencing an action would prejudice the interests of the party that intends to file suit. During
1060 the thirty (30) day notice period, the Contractor and the Contracting Officer shall meet and confer in
1061 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
1062 waive or abridge any right or remedy that the Contractor or the United States may have.

1063 OFFICIALS NOT TO BENEFIT

1064 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1065 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1066 manner as other water users or landowners.

1067 CHANGES IN CONTRACTOR'S SERVICE AREA

1068 36. (a) While this Contract is in effect, no change may be made in the Contractor's
1069 Service Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or
1070 otherwise, except upon the Contracting Officer's written consent.

1092 MEDIUM FOR TRANSMITTING PAYMENT

1093 39. (a) All payments from the Contractor to the United States under this contract
1094 shall be by the medium requested by the United States on or before the date payment is due. The
1095 required method of payment may include checks, wire transfers, or other types of payment specified
1096 by the United States.

1097 (b) Upon execution of the contract, the Contractor shall furnish the Contracting
1098 Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the
1099 Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the
1100 Contractor's relationship with the United States.

1101 NOTICES

1102 40. Any notice, demand, or request authorized or required by this Contract shall be
1103 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1104 to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California
1105 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
1106 Directors of Madera Irrigation District, 12152 Road 28 ¼, Madera, California 93637. The
1107 designation of the addressee or the address may be changed by notice given in the same manner as
1108 provided in this Article of this Contract for other notices.

1109 CONFIRMATION OF CONTRACT

1110 41. The Contractor, after the execution of this Contract, shall promptly provide to the
1111 Contracting Officer a decree of a court of competent jurisdiction of the State of California,
1112 confirming the execution of this Contract. The Contractor shall furnish the United States a certified
1113 copy of the final decree, the validation proceedings, and all pertinent supporting records of the court
1114 approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and
1115 binding on the Contractor.

1116 CONTRACT DRAFTING CONSIDERATIONS

1117 42. Articles 1 through 8, Articles 10 through 15, subdivision (b) of Article 16, Articles 18
1118 through 20, subdivision (c) of Article 23, Articles 26 through 28, subdivision (b) of Article 31,
1119 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and
1120 Article 37 of this Contract have been drafted, negotiated, and reviewed by the parties hereto, each of
1121 whom is sophisticated in the matters to which this Contract pertains, and no one party shall be
1122 considered to have drafted the stated Articles.
1123

1124 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1125 year first above written.

THE UNITED STATES OF AMERICA

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

MADERA IRRIGATION DISTRICT

By: _____
TITLE OF AUTHORIZED SIGNATORY

Attest:

By: _____
TITLE

EXHIBIT A

Map or Description of Service Area

EXHIBIT B
MADERA IRRIGATION DISTRICT - HIDDEN UNIT
2010 Rates and Charges
(Per Acre-Foot)

	Irrigation	Other¹
	Water	Water
	Class 1	
COST-OF-SERVICE (COS) RATES		
O&M Components		
Water Marketing	\$6.01	
Storage	\$6.57	
Conveyance ²	\$0.04	
TOTAL COS (Tier 1 Rate)	\$12.62	
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.	\$24.41	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$27.72	
TIERED PRICING COMPONENTS (In Addition to Total COS Rate Above)		
IRRIGATION		
Tier 2 Rate : >80% <=90% of Contract Total [Section 202(3) Irrigation Full-Cost Rate - COS Rate]/2 (Amount to be added to Tier 1 Rate)	\$5.90	
Tier 3 Rate : >90% of Contract Total [Section 202(3) Irrigation Full-Cost Rate - COS Rate] (Amount to be added to Tier 1 Rate)	\$11.79	
CHARGES AND ASSESSMENTS (Payments in addition to Rates)		
P.L. 102-575 Surcharges ³		
Restoration Fund Payments [Section 3407(d)(2)(A)]	\$9.11	
P.L. 106-377 Assessment (Trinity Public Utilities District) ⁴ [Appendix B, Section 203]	\$0.11	

EXPLANATORY NOTES

EXHIBIT B
MADERA IRRIGATION DISTRICT - HIDDEN UNIT
2010 Rates and Charges
(Per Acre-Foot)

- 1 The Contractor has not projected any delivery of Other Water for the 2010 contract year. A temporary Rate will be applied upon any Other Water delivery.
- 2 Conveyance and Conveyance Pumping Operation and Maintenance costs were removed for ratesetting purposes and are to be billed direct.
- 3 The surcharges were determined pursuant to Tital 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 B
MADERA IRRIGATION DISTRICT - HIDDEN UNIT
2010 Rates and Charges
(Per Acre-Foot)

	Irrigation	Other¹
	Water	Water
	Class 1	
COST-OF-SERVICE (COS) RATES		
O&M Components		
Water Marketing	\$6.01	
Storage	\$6.57	
Conveyance ²	\$0.04	
TOTAL COS (Tier 1 Rate)	\$12.62	
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.	\$24.41	
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TIERED PRICING COMPONENTS (In Addition to Total COS Rate Above)		
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Tier 2 Rate : >80% <=90% of Contract Total [Section 202(3) Irrigation Full-Cost Rate - COS Rate]/2 (Amount to be added to Tier 1 Rate)	\$5.90	
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2010 Rates and Charges
(Per Acre-Foot)

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- 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:

Madera ID - Hidden Unit

San Joaquin River Restoration Act

Existing Capital Obligation (Article 1(m))	\$	2,491,828.92
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Irrigation portion of Existing Capital Obligation	\$	2,491,828.92
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20yr CMT as of : **10/01/10** **4.050%**

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

Discounted Irrigation Capital	\$	2,032,342.26
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Non-Discounted M&I Portion of Existing Capital Obligation	\$	-
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Repayment Obligation - Lump Sum Option (per Article 7(a)(2)(A))	\$	2,032,342.26
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Year	Irrigation Portion of Allocated Capital Cost	
	Beginning Balance	Straight Line Repayment
	2011	\$ 2,491,829
2012	\$ 2,367,237	\$ 124,591
2013	\$ 2,242,646	\$ 124,591
2014	\$ 2,118,055	\$ 124,591
2015	\$ 1,993,463	\$ 124,591
2016	\$ 1,868,872	\$ 124,591
2017	\$ 1,744,280	\$ 124,591
2018	\$ 1,619,689	\$ 124,591
2019	\$ 1,495,097	\$ 124,591
2020	\$ 1,370,506	\$ 124,591
2021	\$ 1,245,914	\$ 124,591
2022	\$ 1,121,323	\$ 124,591
2023	\$ 996,732	\$ 124,591
2024	\$ 872,140	\$ 124,591
2025	\$ 747,549	\$ 124,591
2026	\$ 622,957	\$ 124,591
2027	\$ 498,366	\$ 124,591
2028	\$ 373,774	\$ 124,591
2029	\$ 249,183	\$ 124,591
2030	\$ 124,591	\$ 124,591
		<u>\$ 2,491,829</u>

Exhibit C-2

Repayment Obligation - Installment Payment Option

Priority Contractor: Madera ID - Hidden Unit

Existing Capital Obligation (Article 1(m))	\$ 2,491,828.92
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Irrigation Portion of Existing Capital Obligation	\$ 2,491,828.92
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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	\$ 523,265.53	\$ -	\$ 523,265.53
2nd Installment	5/1/2012	\$ 523,028.46	\$ -	\$ 523,028.46
3rd Installment	5/1/2013	\$ 523,403.35	\$ -	\$ 523,403.35
4th Installment	1/31/2014	\$ 524,194.27	\$ -	\$ 524,194.27
Total Repayment Obligation - Installment Option (per Article 7(a)(2)(A)):		\$ 2,093,891.60	\$ -	\$ 2,093,891.60

Year	Irrigation Portion of Allocated Capital Cost		Discounted Capital Amount			
	Beginning Balance	Straight Line Repayment	\$523,265.53	\$523,028.46	\$523,403.35	\$524,194.27
2011	\$ 2,491,829	\$ 124,591	\$ 124,591			
2012	\$ 2,367,237	\$ 124,591	\$ 26,164	\$ 98,427		
2013	\$ 2,242,646	\$ 124,591	\$ 26,164	\$ 29,092	\$ 69,335	
2014	\$ 2,118,055	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2015	\$ 1,993,463	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2016	\$ 1,868,872	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2017	\$ 1,744,280	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2018	\$ 1,619,689	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2019	\$ 1,495,097	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2020	\$ 1,370,506	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2021	\$ 1,245,914	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2022	\$ 1,121,323	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2023	\$ 996,732	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2024	\$ 872,140	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2025	\$ 747,549	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2026	\$ 622,957	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2027	\$ 498,366	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2028	\$ 373,774	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2029	\$ 249,183	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
2030	\$ 124,591	\$ 124,591	\$ 26,164	\$ 29,092	\$ 32,581	\$ 36,754
	\$ 2,491,829	\$ 2,491,829	\$ 621,711	\$ 622,085	\$ 623,206	\$ 624,826

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

Madera ID - Hidden Unit

Average Annual Delivery - Forecasted for 2020-2039	n/a
Total Projected deliveries (over 20 yr period)	n/a
Article 7(c)	n/a
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	\$2,491,829
NPV at Half CMT (Repayment Obligation)	\$2,032,342
NPV at Full CMT	\$1,685,766
Financing Cost Offset:® (Article 7(c)(1))	\$346,576
NPV of FS Reduction	\$0
Difference between Financing Cost Offset and NPV of FS Reduction	\$346,576
2020 Other Obligation Credit (FV of difference)	\$495,424
(Art. 7(c)(1))***	\$495,424

Year	Irrigation portion of Allocated Capital Cost		CVPIA Friant Surcharges		Reduction in Friant Surcharge			2020 Other Obligation Credit Calculation (Art.
	Beginning Balance	Straight Line Repayment	Surcharge per Acre- Foot Before Reduction	Friant Surcharge Reduction per	Friant Surcharge due per A/F	Projected Total Annual Credit		
2011	\$ 2,491,829	\$	124,591	n/a	n/a	n/a	\$ 346,575.96	
2012	\$ 2,367,237	\$	124,591	n/a	n/a	n/a	\$ 360,612.28	
2013	\$ 2,242,646	\$	124,591	n/a	n/a	n/a	\$ 375,217.08	
2014	\$ 2,118,055	\$	124,591	n/a	n/a	n/a	\$ 390,413.37	
2015	\$ 1,993,463	\$	124,591	n/a	n/a	n/a	\$ 406,225.11	
2016	\$ 1,868,872	\$	124,591	n/a	n/a	n/a	\$ 422,677.23	
2017	\$ 1,744,280	\$	124,591	n/a	n/a	n/a	\$ 439,795.66	
2018	\$ 1,619,689	\$	124,591	n/a	n/a	n/a	\$ 457,607.38	
2019	\$ 1,495,097	\$	124,591	n/a	n/a	n/a	\$ 476,140.48	
2020	\$ 1,370,506	\$	124,591	n/a	n/a	n/a	\$ 495,424.17	
2021	\$ 1,245,914	\$	124,591	n/a	n/a	n/a		
2022	\$ 1,121,323	\$	124,591	n/a	n/a	n/a		
2023	\$ 996,732	\$	124,591	n/a	n/a	n/a		
2024	\$ 872,140	\$	124,591	n/a	n/a	n/a		
2025	\$ 747,549	\$	124,591	n/a	n/a	n/a		
2026	\$ 622,957	\$	124,591	n/a	n/a	n/a		
2027	\$ 498,366	\$	124,591	n/a	n/a	n/a		
2028	\$ 373,774	\$	124,591	n/a	n/a	n/a		
2029	\$ 249,183	\$	124,591	n/a	n/a	n/a		
2030	\$ 124,591	\$	124,591	n/a	n/a	n/a		
2031				n/a	n/a	n/a		
2032				n/a	n/a	n/a		
2033				n/a	n/a	n/a		
2034				n/a	n/a	n/a		
2035				n/a	n/a	n/a		
2036				n/a	n/a	n/a		
2037				n/a	n/a	n/a		
2038				n/a	n/a	n/a		
2039				n/a	n/a	n/a		
	\$	2,491,829				\$0		

Exhibit D
Computation of Financing Costs Offset

Footnotes

*** 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	\$	515,489
Annual Credit Target	\$	(36,616)
FS Reduction w/o limit	n/a	
FS Reduction limit	n/a	

EXHIBIT E

Restated Contract¹

Irrigation and Other

Contract No. 14-06-200-4020E

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

CONTRACT BETWEEN THE UNITED STATES
AND
MADERA IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE FROM
HIDDEN UNIT AND
FOR FACILITIES REPAYMENT

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6	Measurement of Water within the Service Area	
7	Rates, Method of Payment for Water, and Accelerated Repayment of Facilities	
8	Non-Interest Bearing Operation and Maintenance Deficits	
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10	Sales, Transfers, and Exchanges of Water	
11	Application of Payments and Adjustments	
12	Temporary Reductions--Return Flows	
13	Constraints on the Availability of Water	
14	Omitted	

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.

15	Acreage Limitation
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	Omitted
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	Omitted
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 Financing Costs Offset
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 MADERA IRRIGATION DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE FROM
9 HIDDEN UNIT 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 MADERA 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, pursuant to Title II of the Flood Control Act of October 23, 1962 (76
32 Stat. 1180), and supporting documents, the United States constructed Hidden Dam on the Fresno
33 River (thereby creating Hensley Lake), hereinafter referred to as the Hidden Unit, which is operated
34 by the Corps of Engineers for flood control, recreation and other incidental uses; and

35 [3rd] WHEREAS, the United States and the Contractor entered into Contract Number 14-
36 06-200-4020A, as amended, providing the Contractor the right to the entire yield from the Hidden
37 Unit available for conservation purposes from August 5, 1962 through February 28, 1994; and

38 [4th] WHEREAS, the Contractor and the United States have, pursuant to subsection
39 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
40 interim renewal contract(s), identified as Contract Number (s) 14-06-200-4020A-IR2, IR3, IR4, and
41 IR5, which provided for the continued water service to Contractor from March 1, 1995 through
42 February 28, 2001, and subsequently entered into a long-term renewal contract, identified as Contract
43 Number 14-06-200-4020A-LTR1, which provided for continued water service to Contractor through
44 February 28, 2026, which was amended January 22, 2007, and is herein referred to as the "Existing
45 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 Fresno River, including

48 without limitation the permits issued as the result of Decision 1407 by the California State Water
49 Resource Control Board pursuant to which the Contracting Officer develops, diverts, stores and
50 delivers Project Water stored or flowing through Hensley Lake in accordance with State and Federal
51 law for the benefit of the Contractor in the Hidden Unit and for other specified Project purposes; and

52 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project
53 Water developed through the exercise of the rights described in the fifth (5th) Explanatory Recital of
54 this Contract; and

55 [7th] WHEREAS, as a result of litigation entitled “Natural Resources Defense Council, et
56 al. v Kirk Rogers, et al.” No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant Division
57 entered into a Stipulation of Settlement dated September 13, 2006, (the “Settlement”), which
58 settlement prescribes a Restoration Goal and a Water Management Goal and which Settlement was
59 subsequently confirmed and implemented through the SJRRSA; and

60 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the Existing
61 Contract to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, no
62 later than December 31, 2010, and further directs that such contract shall require the accelerated
63 repayment of the Contractors’ allocated share of construction costs, either as a lump sum payment by
64 January 31, 2011 or in annual installments by January 31, 2014, which funds will in turn be made
65 available for implementation of the Settlement and SJRRSA, and which costs otherwise would have
66 been payable through annual water rates, with full repayment by 2030; and

67 [9th] WHEREAS, such repayment of costs will assist the United States with
68 implementation of actions required under the Settlement and the SJRRSA and provide the Contractor
69 the benefits provided in Section 10010 of the SJRRSA; and

70 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act) directs
71 the Secretary to provide that the other party to any contract entered into pursuant to subsection (d) of
72 Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to subsection (e) of Section 9
73 of the Act of August 4, 1939 (water service contract) shall “have the first right (to which the rights of
74 the holders of any other type of irrigation water contract shall be subordinate) to a stated share or
75 quantity of the project’s available water supply for beneficial use on the irrigable lands within the
76 boundaries of, or owned by, the party and a permanent right to such share or quantity upon
77 completion of payment of the amount assigned for ultimate return” by the contractor subject to
78 fulfillment of all obligations under the contract; and

79 [11th] WHEREAS, among other things, this Contract includes provisions granting the
80 Contractor the permanent right to the entire yield from the Hidden Unit available for conservation
81 purposes as 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] Omitted; and

103 [18th] Omitted; and

104 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
105 its obligations under the Existing Contract.

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

DEFINITIONS

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

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

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

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

(d) Omitted;

(e) Omitted;

(f) Omitted;

(g) “Contracting Officer” shall mean the Secretary of the Interior’s duly authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or regulation;

(h) “Contract Total” shall mean the amount of Project Water to which the Contractor is entitled under subdivision (a) of Article 3 of this Contract and is the stated share or

129 quantity of Water to which the Contractor has a permanent right in accordance with the 1956 Act and
130 the terms of this Contract, due to the Contractor's complete payment of the Repayment Obligation,
131 notwithstanding any Additional Capital Obligation that may later be established, which right shall not
132 be disturbed so long as the Contractor fulfills all of its obligations under this Contract;

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

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

139 (j2) "District Engineer" shall mean the District Engineer, United States Army
140 Corps of Engineers, or his authorized representative;

141 (k) Omitted;

142 (l) Omitted;

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

149 (n) “Financing Costs”, for purposes of computing the reduction of certain charges
150 as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference between the net
151 present value of the Existing Capital Obligation discounted using the full Treasury rate and the
152 Existing Capital Obligation discounted using one-half the Treasury Rate, as set forth in Section
153 10010(d)(3) of the SJRRA;

154 (o) Omitted;

155 (p) Omitted;

156 (q) Omitted;

157 (r) “Irrigation Water” shall mean water made available from the Project that is
158 used primarily in the production of agricultural crops or livestock, including domestic use incidental
159 thereto, and watering of livestock. Irrigation water shall not include water used for the purposes such
160 as the watering of landscaping or pasture for animals (e.g., horses) which are kept for personal
161 enjoyment or water delivered to landholdings operated in units of less than five (5) acres unless the
162 Contractor establishes to the satisfaction of the Contracting Officer that the use of the water delivered
163 to any such landholding is a use described in this subdivision of this Article of this Contract;

164 (s) Omitted;

165 (t) Omitted;

166 (u) Omitted;

167 (v) Omitted;

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

171 (x) Omitted;

172 (y) "Other Water" shall mean water from the Project other than Irrigation Water as
173 described in subdivision (r) of this Article of this Contract, which is used for a purpose that is
174 considered to be an irrigation use pursuant to State law such as the watering of landscaping or pasture
175 for animals (e.g., horse) which are kept for the personal enjoyment. For purposes of this Contract,
176 Other Water shall be paid for at Rates and Charges identical to those established for municipal and
177 industrial water pursuant to the then-existing Municipal and Industrial Ratesetting Policy;

178 (y2) "Prior-Rights Water" shall mean that portion of the inflow to Hensley Lake
179 which flows through or is released from Hidden Dam in recognition of prior downstream Fresno
180 River water rights of the Contractor and others, subject to any necessary new water rights permit or
181 permit revisions and in accordance with any applicable agreements relating to the operation of the
182 Hidden Unit and approved by the Contracting Officer and the State Water Resources Control Board,
183 as necessary;

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

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

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

192 (cc) "Rates" shall mean the payments determined annually by the Contracting
193 Officer in accordance with the then-existing applicable water ratesetting policies for the Project, as
194 described in subdivision (a) of Article 7 of this Contract and illustrated in Exhibit "B", attached
195 hereto;

196 (dd) Omitted;

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

202 (ff) "Secretary" shall mean the Secretary of the Interior, a duly appointed
203 successor, or an authorized representative acting pursuant to any authority of the Secretary and
204 through any agency of the Department of the Interior;

205 (gg) "Settlement" shall mean the Stipulation of Settlement dated September 13,
206 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued by
207 the Court pursuant to the terms and conditions of the Settlement in Natural Resources Defense
208 Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

209 (hh) Omitted;

210 (ii) "Water Delivered" or "Delivered Water" shall mean Project Water diverted for
211 use by the Contractor at Hidden Dam, other than Prior-Rights Water, and for pricing purposes shall
212 be 24,000 acre-feet per Year;

213 (jj) Omitted;

214 (kk) Omitted;

215 (ll) Omitted;

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

218 EFFECTIVE DATE OF CONTRACT

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

229 (b) The Contractor has paid the Repayment Obligation, and notwithstanding any
230 Additional Capital Obligation that may later be established, the tiered pricing component and the

231 acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law, shall no
232 longer be applicable to the Contractor.

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

237 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

238 3. (a) During each Year, consistent with all applicable State water rights, permits,
239 and licenses, Federal law, the Settlement including the SJRRSA, and subject to the provisions set
240 forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make available for delivery
241 to the Contractor the entire quantity of Project Water from the Hidden Unit for irrigation purposes.
242 The quantity of Water Delivered to the Contractor in accordance with this subdivision shall be paid
243 for pursuant to the provisions of Article 7 of this Contract.

244 (b) The Contractor has paid the Repayment Obligation, and notwithstanding any
245 Additional Capital Obligation that may later be established, the Contractor has a permanent right to
246 the Contract Total in accordance with the 1956 Act and the terms of this Contract. This right shall
247 not be disturbed so long as the Contractor fulfills all of its obligations hereunder. The quantity of
248 water made available for delivery in any given Year shall remain subject to the terms and conditions
249 of subdivision (a) of this Article of this Contract.

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

252 (d) The Contractor shall make reasonable and beneficial use of all Project Water
253 or other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater
254 banking programs, surface water storage programs, and other similar programs utilizing Project
255 Water or other water furnished pursuant to this Contract conducted within the Contractor's Service
256 Area which are consistent with applicable State law and result in use consistent with applicable
257 Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is (are)
258 described in the Contractor's Water Conservation Plan submitted pursuant to Article 27 of this
259 Contract; Provided further, That such Water Conservation Plan demonstrates sufficient lawful uses
260 exist in the Contractor's Service Area so that using a long-term average, the quantity of Project Water
261 delivered, pursuant to this Contract, is demonstrated to be reasonable for such uses and in compliance
262 with Federal Reclamation law. Groundwater recharge programs, groundwater banking programs,
263 surface water storage programs, and other similar programs utilizing Project Water or other water
264 furnished pursuant to this Contract conducted outside the Contractor's Service Area may be permitted
265 upon written approval of the Contracting Officer, which approval will be based upon environmental
266 documentation, Project Water rights, and Project operational concerns. The Contracting Officer will
267 address such concerns in regulations, policies, or guidelines.

268 (e) The Contractor, through this Contract, shall comply with requirements
269 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation regarding
270 the execution of the Existing Contract undertaken pursuant to Section 7 of the Endangered Species
271 Act of 1973, as amended, as well as the requirements of any other biological opinions applicable to
272 Project Water delivery under this Contract, that are within the Contractor's legal authority to

273 implement. The Contractor shall comply with the limitations or requirements imposed by
274 environmental documentation applicable to the Contractor and within its legal authority to implement
275 regarding specific activities. Nothing herein shall be construed to prevent the Contractor from
276 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
277 biological opinion or other environmental documentation referred to in this Article of this Contract.

278 (f) Omitted.

279 (g) Omitted.

280 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
281 State law to the reasonable and beneficial use of the Contract Total pursuant to this Contract shall not
282 be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract. Nothing
283 in the preceding sentence shall affect the Contracting Officer's ability to impose shortages under
284 Article 12 or Article 13 of this Contract.

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

289 (j) The Contracting Officer shall make reasonable efforts to protect the water
290 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to provide
291 the water available under this Contract. The Contracting Officer shall not object to participation by
292 the Contractor, in the capacity and to the extent permitted by law, in administrative proceedings
293 related to the water rights and other rights described in the fifth (5th) Explanatory Recital of this

294 Contract; Provided however, That the Contracting Officer retains the right to object to the substance
295 of the Contractor's position in such a proceeding. Provided further, that in such proceedings the
296 Contracting Officer shall recognize the Contractor has a legal right under the terms of this Contract to
297 use Project Water.

298 (k) Omitted.

299 (l) Omitted.

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

304 (n) Omitted.

305 (o) Omitted.

306 RESERVOIR OPERATION – USE AND SALE OF WATER

307 4. (a) At the request of the Contractor, pursuant to the terms and conditions of this
308 Contract, the United States, acting through the District Engineer, shall store, regulate, and/or release
309 all flows of Fresno River water at the Hidden Unit subject to the regulation of the Hidden Unit for
310 flood control, as conclusively determined by the District Engineer, and further subject to Prior-Rights
311 Water releases and the maintenance of a minimum pool of five thousand (5,000) acre-feet of water in
312 Hensley Lake for recreational and incidental uses.

313 (b) Project Water delivered to the Contractor pursuant to this Contract shall be
314 used as Irrigation Water or Other Water only and shall not be sold or otherwise disposed of for use
315 outside the Contractor's Service Area without the written approval of the Contracting Officer.

316 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

317 5. (a) Project Water delivered, pursuant to this Contract, shall be delivered to the
318 Contractor at Hidden Dam.

319 (b) Omitted.

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

323 (d) Project Water delivered to the Contractor pursuant to this Contract shall be
324 measured and recorded with equipment furnished, installed, operated, and maintained by the United
325 States at the point of delivery established pursuant to subdivision (a) of this Article of this Contract.
326 Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause to
327 be investigated, the accuracy of such measurements and shall take any necessary steps to adjust any
328 errors appearing therein. For any period of time when accurate measurements have not been made,
329 the Contracting Officer shall consult with the Contractor prior to making a final determination of the
330 quantity delivered for that period of time.

331 (e) The Contracting Officer shall not be responsible for the control, carriage,
332 handling, use, disposal, or distribution of Project Water delivered to the Contractor pursuant to this
333 Contract beyond the delivery point specified in subdivision (a) of this Article of this Contract. The

334 Contractor shall indemnify the United States, its officers, employees, agents, and assigns on account
335 of damage or claim of damage of any nature whatsoever for which there is legal responsibility,
336 including property damage, personal injury, or death arising out of or connected with the control,
337 carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery point,
338 except for any damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any
339 of its officers, employees, agents, or assigns, with the intent of creating the situation resulting in any
340 damage or claim; (ii) willful misconduct of the Contracting Officer or any of its officers, employees,
341 agents, or assigns; (iii) negligence of the Contracting Officer or any of its officers, employees, agents,
342 or assigns; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated
343 by the United States.

344 (f) The Contractor shall maintain a surface water measurement program
345 satisfactory to the Contracting Officer to provide for the operation of the Hidden Unit facilities
346 without interference to established rights including correlative rights easterly of the Eastside-
347 Chowchilla Canal Bypass and keep records of data obtained from such program satisfactory to the
348 Contracting Officer.

349 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

350 6. (a) The Contractor has established a measurement program satisfactory to the
351 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's
352 Service Area is measured at each agricultural turnout; and Other Water delivered by the Contractor is
353 measured at each service connection. The water measuring devices or water measuring methods of
354 comparable effectiveness must be acceptable to the Contracting Officer. The Contractor shall be

355 responsible for installing, operating, and maintaining and repairing all such measuring devices and
356 implementing all such water measuring methods at no cost to the United States. The Contractor shall
357 use the information obtained from such water measuring devices or water measuring methods to
358 ensure its proper management of the water, to bill water users for water delivered by the Contractor;
359 and, if applicable, to record water delivered as Other Water. Nothing herein contained, however,
360 shall preclude the Contractor from establishing and collecting any charges, assessments, or other
361 revenues authorized by California law.

362 (b) To the extent the information has not otherwise been provided, upon execution
363 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
364 the measurement devices or water measuring methods being used or to be used to implement
365 subdivision (a) of this Article of this Contract and identifying the agricultural turnouts and the Other
366 Water service connections or alternative measurement programs approved by the Contracting Officer,
367 at which such measurement devices or water measuring methods are being used, and, if applicable,
368 identifying the locations at which such devices and/or methods are not yet being used including a
369 time schedule for implementation at such locations. The Contracting Officer shall advise the
370 Contractor in writing within sixty (60) days as to the adequacy of, and necessary modifications, if
371 any, of the measuring devices or water measuring methods identified in the Contractor's report and if
372 the Contracting Officer does not respond in such time, they shall be deemed adequate. If the
373 Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate, the
374 parties shall within sixty (60) days following the Contracting Officer's response, negotiate in good
375 faith the earliest practicable date by which the Contractor shall modify said measuring devices and/or

376 measuring methods as required by the Contracting Officer to ensure compliance with subdivision (a)
377 of this Article of this Contract.

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

381 (d) The Contractor shall inform the Contracting Officer and the State of California
382 in writing by April 30 of each Year of the annual volume of Irrigation Water and Other Water
383 delivered within the Contractor's Service Area during the previous Year.

384 (e) Omitted.

385 RATES, METHOD OF PAYMENT FOR WATER,
386 AND ACCELERATED REPAYMENT OF FACILITIES

387 7. (a) The Contractor's cost obligations for all Delivered Water shall be determined
388 in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the
389 Secretary's then-existing ratesetting policy for municipal and industrial water, consistent with the
390 SJRRSA, and such ratesetting policies shall be amended, modified, or superseded only through a
391 public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules
392 and regulations, or policies; and (iii) other applicable provisions of this Contract.

393 (1) The Contractor shall pay the United States as provided for in this
394 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance with
395 policies for Irrigation Water and municipal and industrial water. The Contractor's Rates shall be
396 established to recover its estimated reimbursable costs included in the O&M Component of the Rate
397 and amounts established to recover other charges and deficits, other than the construction costs. The

398 Rates for O&M costs and Charges shall be adjusted, as appropriate, in accordance with the provisions
399 of the SJRRSA.

400 (2) Omitted.

401 (A) Omitted.

402 (B) Project construction costs or other capitalized costs attributable

403 to capital additions to the Project incurred after the effective date of this Contract or that are not
404 reflected in the schedules referenced in Exhibits “C-1” and “C-2” and properly assignable to the
405 Contractor, shall be repaid as prescribed by the SJRRSA without interest except as required by law.

406 Consistent with Federal Reclamation law, interest shall continue to accrue on the municipal and
407 industrial portion of unpaid Project construction costs or other capitalized cost assigned to the

408 Contractor until such costs are paid. Increases or decreases in Project construction costs or other
409 capitalized costs assigned to the Contractor caused solely by annual adjustment of Project

410 construction costs or other capitalized costs assigned to each CVP contractor by the Secretary shall
411 not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B), but

412 will be considered under subdivision (b) of this Article. A separate repayment agreement shall be
413 established by the Contractor and the Contracting Officer to accomplish repayment of all additional

414 Project construction costs or other capitalized costs assigned to the Contractor within the timeframe
415 prescribed by the SJRRSA subject to the following:

416 (1) If the collective annual Project construction costs or
417 other capitalized costs that are incurred after the effective date of this Contract and properly
418 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly

419 assignable to the Contractor shall be repaid in not more than five (5) years after notification of the
420 allocation. This amount is the result of a collective annual allocation of Project construction costs to
421 the contractors exercising contract conversions; Provided, That the reference to the amount of
422 \$5,000,000 shall not be a precedent in any other context.

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

430 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost
431 allocation by the Secretary upon completion of the construction of the Central Valley Project, the
432 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any reallocation
433 of Project construction costs or other capitalized costs assigned to the Contractor that may have
434 occurred between the determination of Contractor's Existing Capital Obligation and the final cost
435 allocation. In the event that the final cost allocation, as determined by the Secretary, indicates that
436 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are greater
437 than the Existing Capital Obligation and other amounts of Project construction costs or other
438 capitalized costs paid by the Contractor, then the Contractor shall be obligated to pay the remaining
439 allocated costs. The term of such additional repayment contract shall be no less than one (1) year and

440 no more than ten (10) years, however, mutually agreeable provisions regarding the rate of repayment
441 of such amount may be developed by the parties. In the event that the final cost allocation, as
442 determined by the Secretary, indicates that the costs properly assignable to the Contractor, as
443 determined by the Contracting Officer, are less than the Existing Capital Obligation and other
444 amounts of Project construction costs or other capitalized costs paid by the Contractor, then the
445 Contracting Officer shall credit such overpayment as an offset against any outstanding or future
446 obligation of the Contractor, consistent with the SJRRSA. This Contract shall be implemented in a
447 manner consistent with Section 10010(f) of the SJRRSA.

448 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide the
449 Contractor an estimate of the Charges for Project Water that will be applied to the period October 1,
450 of the current Calendar Year, through September 30, of the following Calendar Year, and the basis
451 for such estimate. The Contractor shall be allowed not less than two (2) months to review and
452 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
453 Officer shall notify the Contractor in writing of the Charges to be in effect during the period October
454 1 of the current Calendar Year, through September 30 of the following Calendar Year, and such
455 notification shall revise Exhibit "B". Charges shall be subject to reduction consistent with the
456 SJRRSA based upon the average annual delivery amount agreed to by the Contracting Officer and the
457 Contractor.

458 (1) For the years 2020 through 2039 inclusive, outstanding or future
459 obligations of the Contractor shall be reduced consistent with Section 10010(d)(2) of the SJRRSA.
460 The amount of such reduction in outstanding or future obligations of the Contractor after October 1,

461 2010 has been computed by the Contracting Officer, and as computed, such amount is set forth in
462 Exhibit "D".

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

470 (e) Before March 1 and again before July 1 of each Year, the Contractor shall pay
471 to the United States, at the Rates and Charges provided in subdivision (a) of this Article of this
472 Contract, for one-half (1/2) of the Delivered Water (i.e. 12,000 acre-feet) regardless of the quantity of
473 Irrigation Water and Other Water actually made available to the Contractor during the Year.

474 (f) Omitted.

475 (g) Omitted.

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

478 (i) All revenues received by the United States from the Contractor relating to the
479 delivery of Project Water or the delivery of non-project water through Project facilities shall be
480 allocated and applied in accordance with Federal Reclamation law and the associated rules or

481 regulations, the then-existing Project Ratesetting policies for municipal and industrial water or
482 Irrigation Water, and consistent with the SJRRSA.

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

491 (k) The parties acknowledge and agree that the efficient administration of this
492 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
493 policies, and procedures used for establishing Rates, Charges, and/or for making and allocating
494 payments, other than those set forth in this Article of this Contract, may be in the mutual best interest
495 of the parties, it is expressly agreed that the parties may enter into agreements to modify the
496 mechanisms, policies, and procedures for any of those purposes while this Contract is in effect
497 without amending this Contract.

498 (1) (1) Omitted.

499 (2) Omitted.

500 (3) Omitted.

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

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

513 (o) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting
514 Officer is authorized to adjust determinations of ability to pay every five (5) years.

515 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

519 RECOVERED WATER ACCOUNT

520 9. Omitted.

521

522 SALES, TRANSFERS, AND EXCHANGES OF WATER

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

534 (b) Omitted.

535 (c) Omitted.

536 (d) Omitted.

537 (e) Omitted.

538 (f) Omitted.

539 (1) Omitted.

540 (2) Omitted.

541 (3) Omitted.

542 (4) Omitted.

543 (g) Notwithstanding any Additional Capital Obligation that may later be
544 established, in the case of a sale or transfer of Irrigation Water to another contractor which is
545 otherwise subject to the acreage limitations, reporting, and Full Cost pricing provisions of the
546 Reclamation Reform Act of 1982, as amended, hereinafter referred to as the RRA, such sold or
547 transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of a
548 sale or transfer of Irrigation Water to the Contractor from another contractor which is subject to RRA
549 provisions, such RRA provisions shall apply to delivery of such water.

550 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

562 (b) All advances for miscellaneous costs incurred for work requested by the
563 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs when the

564 work has been completed. If the advances exceed the actual costs incurred, the difference will be
565 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will
566 be billed for the additional costs pursuant to Article 26 of this Contract.

567 TEMPORARY REDUCTIONS—RETURN FLOWS

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

572 (b) The Contracting Officer may temporarily discontinue or reduce the quantity of
573 Project Water delivered to the Contractor, pursuant to this Contract, as herein provided for the
574 purposes of investigation, inspection, maintenance, repair, or replacement of any of the Project
575 facilities or any part thereof necessary for the delivery of Project Water to the Contractor, but so far
576 as feasible the Contracting Officer will give the Contractor due notice in advance of such temporary
577 discontinuance or reduction, except in case of emergency, in which case no notice need be given;
578 Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction in
579 such service. Upon resumption of service after such reduction or discontinuance, and if requested by
580 the Contractor, the United States will, if possible, deliver the quantity of Project Water which would
581 have been delivered hereunder in the absence of such discontinuance or reduction.

582 (c) The United States reserves the right to all seepage and return flow water
583 derived from Project Water delivered to the Contractor, pursuant to this Contract, which escapes or is
584 discharged beyond the Contractor's Service Area; Provided, That this shall not be construed as

585 claiming for the United States any right as seepage or return flow to water being used pursuant to this
586 Contract for surface irrigation or underground storage either being put to reasonable and beneficial
587 use pursuant to this Contract within the Contractor's Service Area by the Contractor or those
588 claiming by, through, or under the Contractor. For purposes of this subdivision, groundwater
589 recharge, groundwater banking and all similar groundwater activities will be deemed to be
590 underground storage.

591 CONSTRAINTS ON THE AVAILABILITY OF WATER

592 13. If there is a reduction in total water supply because of errors in physical operations of
593 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
594 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a)
595 of Article 19 of this Contract, no liability shall accrue against the United States or any of its officers,
596 agents, or employees for any damage, direct or indirect, arising therefrom.

597 UNAVOIDABLE GROUNDWATER PERCOLATION

598 14. Omitted.

599 ACREAGE LIMITATION

600 15. (a) The Contractor has paid the Repayment Obligation, and notwithstanding any
601 Additional Capital Obligation that may later be established, the provisions of section 213(a) and (b)
602 of the RRA shall apply to lands in the Contractor's Service Area, with the effect that acreage
603 limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer apply to lands in
604 the Contractor's Service Area with respect to Water Delivered pursuant to this Contract.

605 Reclamation will conduct a final water district review for the purpose of determining compliance

606 with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA from the date of
607 the last water district review until the date when payment to Reclamation of the Repayment
608 Obligation was completed.

609 (b) Project Water now owned or hereafter acquired by the Contractor through a
610 separate contract, other than this Contract, that is subject to Federal Reclamation law, may be
611 delivered to lands within the Contractor's Service Area. Notwithstanding any Additional Capital
612 Obligation that may later be established, Project Water delivered under this Contract may be mixed
613 with Project Water delivered pursuant to a contract with the United States, other than this Contract, to
614 which acreage limitations, reporting, and the Full Cost pricing provisions of Federal Reclamation law
615 apply without causing the application of the acreage limitations, reporting, and the Full Cost pricing
616 provisions of Federal Reclamation law to the Project Water delivered pursuant to this Contract;
617 Provided, The terms and conditions in such other contract shall continue to apply, and if such terms
618 and conditions so require, the lands to receive Project Water under such other contract shall be
619 properly designated by the Contractor and such Project Water is to be delivered in accordance with
620 the RRA including any applicable acreage limitations, reporting, and the Full Cost pricing provisions.

621 RULES, REGULATIONS, AND DETERMINATIONS

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

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

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

628

629

PROTECTION OF WATER AND AIR QUALITY

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

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

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

645 WATER ACQUIRED BY THE CONTRACTOR
646 OTHER THAN FROM THE UNITED STATES

647 18. (a) Omitted.

648 (b) Notwithstanding any Additional Capital Obligation that may later be
649 established, water or water rights now owned or hereafter acquired by the Contractor other than from
650 the United States pursuant to this Contract and Irrigation Water furnished pursuant to the terms of
651 this Contract may be simultaneously transported through the same distribution facilities of the
652 Contractor without the payment of fees to the United States and without application of Federal
653 Reclamation law to Project Water delivered pursuant to this Contract or to lands which receive
654 Project Water delivered to Contractor pursuant to this Contract.

655 (c) Water or water rights now owned or hereafter acquired by the Contractor, other
656 than from the United States or adverse to the Project or its contractors (i.e., non-project water), may

657 be stored, conveyed and/or diverted through Project facilities, other than Hidden Unit facilities,
658 subject to the completion of appropriate environmental documentation, with the approval of the
659 Contracting Officer and the execution of any contract determined by the Contracting Officer to be
660 necessary, consistent with the following provisions:

661 (1) The Contractor may introduce non-project water into Project facilities
662 and deliver said water to lands within the Contractor's Service Area subject to payment to the United
663 States an appropriate rate as determined by the Contracting Officer. In addition, if electrical power is
664 required to pump non-project water, the Contractor shall be responsible for obtaining the necessary
665 power and paying the necessary charges therefor.

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

672 (3) The United States shall not be responsible for control, care or
673 distribution of the non-project water before it is introduced into or after it is delivered from the
674 Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United
675 States and its respective officers, agents, and employees, from any claim for damage to persons or
676 property, direct or indirect, resulting from Contractor's diversion or extraction of non-project water
677 from any source.

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

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

686 (d) Non-project water may be stored, conveyed and/or diverted through Hidden
687 Unit facilities, subject to the prior completion of appropriate environmental documentation and
688 approval of the Contracting Officer without execution of a separate contract, consistent with
689 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be appropriate
690 by the Contracting Officer.

691 OPINIONS AND DETERMINATIONS

692 19. (a) Where the terms of this Contract provide for actions to be based upon the
693 opinion or determination of either party to this Contract, said terms shall not be construed as
694 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
695 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly reserve
696 the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
697 unreasonable opinion or determination. Each opinion or determination by either party shall be
698 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect or

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

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

706 COORDINATION AND COOPERATION

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

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

718 (1) The Contracting Officer will, at the request of the Contractor, assist in
719 the development of integrated resource management plans for the Contractor. Further, the

720 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
721 improve water supply, water quality, and reliability.

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

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

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

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

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

738 CHARGES FOR DELINQUENT PAYMENTS

739 21. (a) The Contractor shall be subject to interest, administrative and penalty charges
740 on delinquent installments or payments. When a payment is not received by the due date, the
741 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
742 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
743 charge to cover additional costs of billing and processing the delinquent payment. When a payment

744 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
745 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
746 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
747 payment.

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

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

756 EQUAL EMPLOYMENT OPPORTUNITY

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

758 (a) The Contractor will not discriminate against any employee or applicant for
759 employment because of race, color, religion, sex, disability, or national origin. The Contractor will
760 take affirmative action to ensure that applicants are employed, and that employees are treated during
761 employment, without regard to their race, color, religion, sex, disability, or national origin. Such
762 action shall include, but not be limited to the following: employment, upgrading, demotion, or
763 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of
764 compensation; and selection for training, including apprenticeship. The Contractor agrees to post in
765 conspicuous places, available to employees and applicants for employment, notices to be provided by
766 the Contracting Officer setting forth the provisions of this nondiscrimination clause.

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

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

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

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

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

790 (g) The Contractor will include the provisions of paragraphs (1) through (7) in every
791 subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of
792 Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such
793 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
794 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
795 means of enforcing such provisions, including sanctions for noncompliance: *Provided, however*, that
796 in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor
797 or vendor as a result of such direction, the Contractor may request the United States to enter into such
798 litigation to protect the interests of the United States.

799 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

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COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

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

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

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

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PRIVACY ACT COMPLIANCE

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25. Omitted.

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CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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26. In addition to all other payments to be made by the Contractor pursuant to this

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Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill

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and detailed statement submitted by the Contracting Officer to the Contractor for such specific items

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of direct cost incurred by the United States for work requested by the Contractor associated with this

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Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and

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procedures. All such amounts referred to in this Article of this Contract shall not exceed the amount

841 agreed to in writing in advance by the Contractor. This Article of this Contract shall not apply to
842 costs for routine contract administration.

843 WATER CONSERVATION

844 27. (a) Prior to the delivery of water provided from or conveyed through Federally
845 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
846 implementing an effective water conservation and efficiency program based on the Contractor's water
847 conservation plan that has been determined by the Contracting Officer to meet the conservation and
848 efficiency criteria for evaluating water conservation plans established under Federal law. The water
849 conservation and efficiency program shall contain definite water conservation objectives, appropriate
850 economically feasible water conservation measures, and time schedules for meeting those objectives.
851 Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor's
852 continued implementation of such water conservation program. In the event the Contractor's water
853 conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of
854 this Article of this Contract have not yet been determined by the Contracting Officer to meet such
855 criteria, due to circumstances which the Contracting Officer determines are beyond the control of the
856 Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently
857 works with the Contracting Officer to obtain such determination at the earliest practicable date, and
858 thereafter the Contractor immediately begins implementing its water conservation and efficiency
859 program in accordance with the time schedules therein.

860 (b) Omitted.

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

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

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

872 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

873 28. Except as specifically provided in Article 18 of this Contract, the provisions of this
874 Contract shall not be applicable to or affect non-project water or water rights now owned or hereafter
875 acquired by the Contractor or any user of such water within the Contractor's Service Area, including,
876 without limitation, Prior-Rights Water. Any such water shall not be considered Project Water under
877 this Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights
878 which the Contractor or any water user within the Contractor's Service Area acquires or has available
879 under any other contract pursuant to Federal Reclamation law.

880 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

881 29. Omitted.

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CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

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

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BOOKS, RECORDS, AND REPORTS

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

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(b) Notwithstanding the provisions of subdivision (a) of this Article of this

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Contract, no books, records, or other information shall be requested from the Contractor by the

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Contracting Officer unless such books, records, or information are reasonably related to the

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administration or performance of this Contract. Any such request shall allow the Contractor a

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reasonable period of time within which to provide the requested books, records, or information.

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(c) Omitted.

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ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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(b) The assignment of any right or interest in this Contract by either party shall not

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interfere with the rights or obligations of the other party to this Contract absent the written

910 concurrence of said other party.

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

913 SEVERABILITY

914 33. In the event that a person or entity who is neither (i) a party to a Project contract, nor
915 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
916 association or other form of organization whose primary function is to represent parties to Project
917 contracts, brings an action in a court of competent jurisdiction challenging the legality or
918 enforceability of a provision included in this Contract and said person, entity, association, or
919 organization obtains a final court decision holding that such provision is legally invalid or
920 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
921 parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final
922 court decision identify by mutual agreement the provisions in this Contract which must be revised
923 and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s). The time
924 periods specified above may be extended by mutual agreement of the parties. Pending the
925 completion of the actions designated above, to the extent it can do so without violating any applicable
926 provisions of law, the United States shall continue to make the quantities of Project Water specified
927 in this Contract available to the Contractor pursuant to the provisions of this Contract which were not
928 found to be legally invalid or unenforceable in the final court decision.

929 RESOLUTION OF DISPUTES

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

931 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
932 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
933 any matter to Department of Justice, the party shall provide to the other party thirty (30) days written
934 notice of the intent to take such action; Provided, That such notice shall not be required where a delay
935 in commencing an action would prejudice the interests of the party that intends to file suit. During
936 the thirty (30) day notice period, the Contractor and the Contracting Officer shall meet and confer in
937 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
938 waive or abridge any right or remedy that the Contractor or the United States may have.

939 OFFICIALS NOT TO BENEFIT

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

943 CHANGES IN CONTRACTOR'S SERVICE AREA

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

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

954 and (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition,
955 the Contracting Officer shall comply with the National Environmental Policy Act and the Endangered
956 Species Act. The Contractor will be responsible for all costs incurred by the Contracting Officer in
957 this process, and such costs will be paid in accordance with Article 26 of this Contract.

958 FEDERAL LAWS

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

965 EMERGENCY RESERVE FUND

966 38. Omitted.

967 MEDIUM FOR TRANSMITTING PAYMENT

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

972 (b) Upon execution of the contract, the Contractor shall furnish the Contracting
973 Officer with the Contractor's taxpayer's identification number (TIN). The purpose for requiring the
974 Contractor's TIN is for collecting and reporting any delinquent amounts arising out of the
975 Contractor's relationship with the United States.

976 NOTICES

977 40. Any notice, demand, or request authorized or required by this Contract shall be
978 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
979 to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California

980 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of
981 Directors of Madera Irrigation District, 12152 Road 28 ¼, Madera, California 93637. The
982 designation of the addressee or the address may be changed by notice given in the same manner as
983 provided in this Article of this Contract for other notices.

984 CONFIRMATION OF CONTRACT

985 41. The Contractor, after the execution of this Contract, shall promptly provide to the
986 Contracting Officer a decree of a court of competent jurisdiction of the State of California,
987 confirming the execution of this Contract. The Contractor shall furnish the United States a certified
988 copy of the final decree, the validation proceedings, and all pertinent supporting records of the court
989 approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and
990 binding on the Contractor.

991 CONTRACT DRAFTING CONSIDERATIONS

992 42. Articles 1 through 8, Articles 10 through 15, subdivision (b) of Article 16, Articles 18
993 through 20, subdivision (c) of Article 23, Articles 26 through 28, subdivision (b) of Article 31,
994 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and
995 Article 37 of this Contract have been drafted, negotiated, and reviewed by the parties hereto, each of
996 whom is sophisticated in the matters to which this Contract pertains, and no one party shall be
997 considered to have drafted the stated Articles.
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999 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1000 year first above written.