

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

CONTRACT BETWEEN THE UNITED STATES  
AND  
EL DORADO COUNTY WATER AGENCY  
PROVIDING FOR PROJECT WATER SERVICE  
FROM THE AMERICAN RIVER DIVISION

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1           THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in  
2   pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or  
3   supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844),  
4   as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,  
5   June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), Title XXXIV of the Act of  
6   October 30, 1992 (106 Stat. 4706), and Section 206(b)(1)(B) of the Act of November 5, 1990  
7   (104 Stat 2087), all collectively hereinafter referred to as Federal Reclamation law, between  
8   THE UNITED STATES OF AMERICA, hereinafter referred to as the United States, and EL  
9   DORADO COUNTY WATER AGENCY, hereinafter referred to as the Contractor, a public  
10   agency of the State of California, duly organized, existing, and acting pursuant to the laws  
11   thereof;

12           WITNESSETH, That:

13                           EXPLANATORY RECITALS

14           [1<sup>st</sup>]   WHEREAS, the United States has constructed and is operating the Central Valley  
15   Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for  
16   flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection  
17   and restoration, generation and distribution of electric energy, salinity control, navigation and  
18   other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River,

19 and the San Joaquin River and their tributaries; and

20 [2<sup>nd</sup>] WHEREAS, the United States constructed Folsom Dam and Reservoir and related  
21 facilities, hereinafter collectively referred to as the American River Division facilities, which will  
22 be used in part for the furnishing of water to the Contractor pursuant to the terms of this  
23 Contract; and

24 [3<sup>rd</sup>] WHEREAS, the rights to Project Water were acquired by the United States  
25 pursuant to California law for operation of the Project; and

26 [4<sup>th</sup>] WHEREAS, Section 206(b)(1) of P.L. 101-514 (104 Stat. 2087) authorizes and  
27 directs the Secretary of the Interior to enter into a municipal and industrial water supply contract  
28 with the Contractor, not to exceed 15,000 acre-feet annually, as the first phase of a contracting  
29 program to meet the long-term water supply needs of El Dorado County; and

30 [5<sup>th</sup>] WHEREAS, the Contractor has determined that, based on geographic settings and  
31 water need projections, the water needs of El Dorado County would be best met by sharing the  
32 annual quantity of Project water made available to the Contractor between El Dorado Irrigation  
33 District (EID) and Georgetown Divide Public Utility District by means of subcontracts with each  
34 of those agencies; and

35 [6<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the  
36 Contracting Officer that the Contractor has projected future demand for water use such that the  
37 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the  
38 quantity of Project Water to be made available to it pursuant to this Contract; and

39 [7<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the  
40 Contractor's, depend upon the availability of water, including water service from the Project; and

41 [8<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and

42 partnerships to pursue measures to improve water supply, water quality, and reliability of the  
43 Project for all Project purposes; and

44 [9<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
45 provide for reliable Project Water supplies; to control costs of those supplies; to achieve  
46 repayment of the Project as required by law; to guard reasonably against Project Water  
47 shortages; to achieve a reasonable balance among competing demands for use of Project Water;  
48 and to comply with all applicable environmental statutes, all consistent with the legal obligations  
49 of the United States relative to the Project; and

50 [10<sup>th</sup>] WHEREAS, EID entered into Warren Act Contract No. 06-WC-20-3317 and  
51 committed to diverting no more than 8,500 acre-feet until a Temperature Control Device (TCD)  
52 is constructed and operational; and

53 [11<sup>th</sup>] WHEREAS, the environmental compliance requirements for the effective date of  
54 this Contract have been met by \_\_\_\_\_ (insert date and document  
55 number or title); and

56 [12<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into this  
57 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below.

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

60 DEFINITIONS

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

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

65 (b) “Charges” shall mean the payments required by Federal Reclamation law  
66 in addition to the Rates and Tiered Pricing Component specified in this Contract as determined  
67 annually by the Contracting Officer pursuant to this Contract;

68 (c) “Condition of Shortage” shall mean a condition respecting the Project  
69 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the  
70 Contract Total;

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

74 (e) “Contract Total” shall mean the maximum amount of water to which the  
75 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

76 (f) “Contractor's Service Area” shall mean the area to which the Contractor is  
77 permitted to provide Project Water under this Contract as described in Exhibit “A” attached  
78 hereto, which may be modified from time to time in accordance with Article 33 of this Contract  
79 without amendment of this Contract;

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

82 (h) Omitted;

83 (i) Omitted

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

88 law or applicable contract provisions. Interest will accrue on both the construction expenditures  
89 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the  
90 date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated  
91 in accordance with subsections 202(3)(B) and (3)(C) of the Reclamation Reform Act of October  
92 12, 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA. The Full Cost Rate  
93 includes actual operation, maintenance, and replacement costs consistent with Section 426.2 of  
94 the Rules and Regulations for the RRA;

95 (k) Omitted;

96 (l) Omitted;

97 (m) "Irrigation Water" shall mean Project Water used to irrigate land primarily  
98 for the production of commercial agricultural crops or livestock, and domestic and other uses  
99 that are incidental thereto. It does not include uses such as watering golf courses; lawns and  
100 ornamental shrubbery used in residential and commercial landscaping, household gardens, parks  
101 and other recreational facilities; pasture for animals raised for personal purposes or for  
102 nonagricultural commercial purposes; cemeteries; and similar uses (except to the extent that  
103 some of these uses may be incidental to uses that are primarily agricultural). It also does not  
104 include commercial agricultural uses that do not require irrigation, such as fish farms and  
105 livestock production in confined feeding or brooding operations;

106 (n) Omitted;

107 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water used  
108 for municipal, industrial, and miscellaneous purposes not falling under the definition of  
109 "Irrigation Water" described in subdivision (m) of this Article 1 or within another category of  
110 water use under an applicable Federal authority;

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

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

116 (r) Omitted;

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

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

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

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

128 (w) "Recent Historic Average" shall mean the most recent five-year average of  
129 the final forecast of Water Made Available to the Contractor pursuant to this Contract;

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

133 (y) "Standard Criteria" shall mean the criteria developed in accordance with

134 Section 3405(e) of the CVPIA;

135 (z) “Tiered Pricing Component” shall be the incremental amount to be paid  
136 for each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

137 (aa) “Water Delivered” or “Delivered Water” shall mean Project Water  
138 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting  
139 Officer;

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

143 (cc) “Water Scheduled” shall mean Project Water made available to the  
144 Contractor for which times and quantities for delivery have been established by the Contractor  
145 and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract;

146 (dd) “Year” shall mean the period from and including March 1 of each  
147 Calendar Year through the last day of February of the following Calendar Year.

148 TERM OF CONTRACT

149 2. (a) This Contract shall become effective on March 1<sup>st</sup> following the date first  
150 written above and shall remain in effect for a term of 40 years from the effective date. In the  
151 event the Contractor wishes to renew this Contract beyond 40 years from the Contract effective  
152 date, the Contractor shall submit a request for renewal in writing to the Contracting Officer no  
153 later than two years prior to the date this Contract expires.

154 (b) Omitted.

155 (c) This Contract shall be renewed for successive periods of 40 years each  
156 which period shall be consistent with then-existing Reclamation-wide policy, under terms and

157 conditions mutually agreeable to the parties and consistent with Federal and State law. The  
158 Contractor shall be afforded the opportunity to comment to the Contracting Officer on the  
159 proposed adoption and application of any revised policy applicable to the delivery of Project  
160 M&I Water that would limit the term of any subsequent renewal contract with the Contractor for  
161 the furnishing of M&I Water to less than 40 years.

162 (d) The Contracting Officer shall make a determination 10 years after the  
163 effective date of this Contract, and every five years thereafter during the term of this Contract, of  
164 whether a conversion to a contract under subsection 9(c)(1) of Section 9 of the Reclamation  
165 Project Act of 1939 can be accomplished. The Contracting Officer anticipates that during the  
166 term of this Contract, all authorized Project construction expected to occur will have occurred,  
167 and on that basis the Contracting Officer agrees upon such completion to allocate all costs that  
168 are properly assignable to the Contractor, and agrees further that, at any time after such  
169 allocation is made, and subject to satisfaction of the condition set out in this subdivision, this  
170 Contract shall, at the request of the Contractor, be converted to a contract under said subsection  
171 (c)(1) of Section 9, subject to applicable Federal law and under stated terms and conditions  
172 mutually agreeable to the Contractor and the Contracting Officer. A condition for such  
173 conversion to occur shall be a determination by the Contracting Officer that, account being taken  
174 of the amount credited to return by the Contractor as provided for under Federal Reclamation  
175 law, the remaining amount of construction costs assignable for ultimate return by the Contractor  
176 can probably be repaid to the United States within the term of a contract under said subsection  
177 (c)(1) of Section 9. If the remaining amount of costs that are properly assignable to the  
178 Contractor cannot be determined during the term of this Contract, the Contracting Officer shall  
179 notify the Contractor, and provide the reason(s) why such a determination could not be made.

180 Further, the Contracting Officer shall make such a determination as soon thereafter as possible so  
181 as to permit, upon request of the Contractor and satisfaction of the condition set out above,  
182 conversion to a contract under said subsection (c)(1) of Section 9. In the event such  
183 determination of costs has not been made at a time which allows conversion of this Contract  
184 during the term of this Contract or the Contractor has not requested conversion of this Contract  
185 within such term, the parties shall incorporate in any subsequent renewal contract as described in  
186 subdivision (c) of this Article a provision that carries forth in substantially identical terms the  
187 provisions of this subdivision.

188 (e) The term of the subcontracts entered into by the Contractor for the Project  
189 Water made available to the Contractor pursuant to this Contract shall not exceed the term of this  
190 Contract.

191 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

192 3. (a) During each Year, consistent with all applicable California state water  
193 rights, permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11  
194 and 12 of this Contract, the Contracting Officer shall make available for delivery to the  
195 Contractor 15,000 acre-feet of Project Water for M&I purposes. Water Delivered to the  
196 Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the  
197 provisions of Articles 4 and 7 of this Contract. *Provided*, the Contracting Officer is not obligated  
198 to deliver, and the Contractor may not divert or otherwise sale, transfer, or exchange any part of  
199 the Contract Total under this Contract until the parties agree that Reclamation has satisfied  
200 applicable legal requirements for the delivery of CVP water under this Contract.

201 (b) Because the capacity of the Project to deliver Project Water has been  
202 constrained in recent years and may be constrained in the future due to many factors including

203 hydrologic conditions and implementation of Federal and State laws, the likelihood of the  
204 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this  
205 Article in any given Year is uncertain. Nothing in subdivision (b) of this Article shall affect the  
206 rights and obligations of the parties under any provision of this Contract.

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

209 (d) The Contractor shall make reasonable and beneficial use of all water  
210 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in-lieu),  
211 ground-water banking programs, surface water storage programs, and other similar programs  
212 utilizing Project Water or other water furnished pursuant to this Contract conducted within the  
213 Contractor's Service Area which are consistent with applicable State law and result in use  
214 consistent with Federal Reclamation law will be allowed; *Provided*: That any direct recharge  
215 program(s) is (are) described in the Contractor's water conservation plan submitted pursuant to  
216 Article 24 of this Contract; *Provided further*: That such water conservation plan demonstrates  
217 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average,  
218 the quantity of Delivered Water is demonstrated to be reasonable for such uses and in  
219 compliance with Federal Reclamation law. Groundwater recharge programs, groundwater  
220 banking programs, surface water storage programs, and other similar programs utilizing Project  
221 Water or other water furnished pursuant to this Contract conducted outside the Contractor's  
222 Service Area may be permitted upon written approval of the Contracting Officer, which approval  
223 will be based upon environmental documentation, Project Water rights, and Project operational  
224 concerns. The Contracting Officer will address such concerns in regulations, policies, or  
225 guidelines.

226 (e) The Contractor shall comply with all requirements applicable to the  
227 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution  
228 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),  
229 as amended, that are within the Contractor’s legal authority to implement. Nothing herein shall  
230 be construed to prevent the Contractor from challenging or seeking judicial relief in a court of  
231 competent jurisdiction with respect to any biological opinion or other environmental  
232 documentation referred to in this Article.

233 (f) Following the declaration of Water Made Available under Article 4 of this  
234 Contract, the Contracting Officer will make a determination whether Project Water, or other  
235 water available to the Project, can be made available to the Contractor in addition to the Contract  
236 Total under Article 3 of this Contract during the Year without adversely impacting other Project  
237 Contractors. At the request of the Contractor, the Contracting Officer will consult with the  
238 Contractor prior to making such a determination. If the Contracting Officer determines that  
239 Project Water, or other water available to the Project, can be made available to the Contractor,  
240 the Contracting Officer will announce the availability of such water and shall so notify the  
241 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor  
242 and other Project Contractors capable of taking such water to determine the most equitable and  
243 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such  
244 water, the Contracting Officer shall make such water available to the Contractor in accordance  
245 with applicable statutes, regulations, guidelines, and policies.

246 (g) The Contractor may request permission to reschedule for use during the  
247 subsequent Year some or all of the Water Made Available to the Contractor during the current  
248 Year referred to as “carryover”. The Contractor may request permission to use during the

249 current Year a quantity of Project Water which may be made available by the United States to  
250 the Contractor during the subsequent Year referred to as “preuse”. The Contracting Officer’s  
251 written approval may permit such uses in accordance with applicable statutes, regulations,  
252 guidelines, and policies.

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

261 (i) Project Water furnished to the Contractor pursuant to this Contract may be  
262 delivered for purposes other than those described in subdivision (o) of Article 1 of this Contract  
263 upon written approval by the Contracting Officer in accordance with the terms and conditions of  
264 such approval.

265 (j) The Contracting Officer shall make reasonable efforts to protect the water  
266 rights necessary for the Project and to provide the water available under this Contract. The  
267 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the  
268 extent permitted by law, in administrative proceedings related to the Project Water rights;  
269 *Provided:* That the Contracting Officer retains the right to object to the substance of the  
270 Contractor’s position in such a proceeding; *Provided further:* That in such proceedings the  
271 Contracting Officer shall recognize the Contractor has a legal right under the terms of this

272 Contract to use Project Water.

273 TIME FOR DELIVERY OF WATER

274 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer  
275 shall announce the Contracting Officer's expected declaration of the Water Made Available.

276 Such declaration will be expressed in terms of both Water Made Available and the Recent  
277 Historic Average and will be updated monthly, and more frequently if necessary, based on then-  
278 current operational and hydrologic conditions and a new declaration with changes, if any, to the  
279 Water Made Available will be made. The Contracting Officer shall provide forecasts of Project  
280 operations and the basis of the estimate, with relevant supporting information, upon the written  
281 request of the Contractor. Concurrently with the declaration of the Water Made Available, the  
282 Contracting Officer shall provide the Contractor with the updated Recent Historic Average.

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

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

293 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this  
294 Contract, the United States shall deliver Project Water to the Contractor in accordance with the

295 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any  
296 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable  
297 time prior to the date(s) on which the requested change(s) is/are to be implemented; *Provided:*  
298 That water delivered by means of an exchange shall be exchanged and delivered only within the  
299 terms of state water rights for said water, including any permits, licenses, or approvals issued by  
300 the California State Water Resources Control Board (SWRCB) relating to those rights.

301 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

302 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
303 Contract shall be delivered to the Contractor or its designated subcontractors at Folsom Lake, by  
304 exchange for water from tributaries upstream of Folsom Lake on the American River or its  
305 tributaries, and at any additional point or points of delivery either on Project facilities or another  
306 location or locations mutually agreed to in writing by the Contracting Officer and the Contractor;  
307 *Provided*, however, that no more than 8,500 acre-feet of water shall be delivered to EID pursuant  
308 to this Contract and EID's Warren Act Contract No. 06-WC-20-3317 per Year until EID's TCD  
309 is constructed and operational and the Contractor attains the written approval of the Contracting  
310 Officer.

311 (b) The Contractor may enter into subcontracts for the resale and distribution  
312 of water furnished pursuant to this Contract. The terms and conditions of each subcontract shall  
313 be consistent with the provisions of the Record of Decision approving this Contract and the  
314 terms of this Contract, and a copy shall be provided to the Contracting Officer for review and  
315 approval before the Contractor executes any such subcontract(s). Nothing herein or therein  
316 contained shall be deemed in any way to release the Contractor from its primary liability to the  
317 United States hereunder with respect to each and all of the obligations undertaken by the

318 Contractor in this Contract. To the maximum extent allowed by law, when any failure to comply  
319 with this Contract by the Contractor is due to the action or inaction, solely, of any subcontractor  
320 and such failure to comply results in denial or discontinuation of the delivery of water under this  
321 Contract, the Contractor shall still be entitled to the benefits of this Contract if, and only if, the  
322 Contractor ceases deliveries of water under this Contract to the noncomplying subcontractor until  
323 such time as non-compliance is resolved.

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

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

335 (e) The Contracting Officer shall not be responsible for the control, carriage,  
336 handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this  
337 Contract beyond the delivery point(s) specified in subdivision (a) of this Article. The Contractor  
338 shall indemnify the United States, its officers, employees, agents, and assigns on account of  
339 damage or claim of damage of any nature whatsoever for which there is legal responsibility,  
340 including property damage, personal injury, or death arising out of or connected with the control,

341 carriage, handling, use, disposal, or distribution of such Water Delivered beyond such delivery  
342 points, except for any damage or claim arising out of (i) acts or omissions of the Contracting  
343 Officer or any of its officers, employees, agents, or assigns with the intent of creating the  
344 situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or  
345 any of its officers, employees, agents, or assigns; (iii) negligence of the Contracting Officer or  
346 any of its officers, employees, agents, or assigns; or (iv) damage or claims resulting from a  
347 malfunction of facilities owned and/or operated by the United States.

348 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

349 6. (a) The Contractor shall establish a measuring program satisfactory to the  
350 Contracting Officer. The Contractor shall ensure that all surface water delivered for M&I  
351 purposes is measured at each M&I service connection. The water measuring devices or water  
352 measuring methods of comparable effectiveness must be acceptable to the Contracting Officer.  
353 The Contractor shall be responsible for installing, operating, and maintaining and repairing all  
354 such measuring devices and implementing all such water measuring methods at no cost to the  
355 United States. The Contractor shall use the information obtained from such water measuring  
356 devices or water measuring methods to ensure its proper management of the water, to bill water  
357 users for water delivered by the Contractor, and, if applicable, to record water delivered for M&I  
358 purposes by customer class as defined in the Contractor's water conservation plan provided for  
359 in Article 24 of this Contract. Nothing herein contained, however, shall preclude the Contractor  
360 from establishing and collecting any charges, assessments, or other revenues authorized by  
361 California law. The Contractor shall include a summary of all its annual surface water deliveries  
362 in the annual report described in subdivision (c) of Article 24.

363 (b) To the extent the information has not otherwise been provided, upon the

364 effective date of this Contract, the Contractor shall provide to the Contracting Officer a written  
365 report describing the measurement devices or water measuring methods being used or to be used  
366 to implement subdivision (a) of this Article and identifying the M&I service connections or  
367 alternative measurement programs approved by the Contracting Officer, at which such  
368 measurement devices or water measuring methods are being used, and, if applicable, identifying  
369 the locations at which such devices and/or methods are not yet being used including a time  
370 schedule for implementation at such locations. The Contracting Officer shall advise the  
371 Contractor in writing within 60 days as to the adequacy of, and necessary modifications, if any,  
372 of the measuring devices or water measuring methods identified in the Contractor's report and if  
373 the Contracting Officer does not respond in such time, they shall be deemed adequate. If the  
374 Contracting Officer notifies the Contractor that the measuring devices or methods are  
375 inadequate, the parties shall within 60 days following the Contracting Officer's response,  
376 negotiate in good faith the earliest practicable date by which the Contractor shall modify said  
377 measuring devices and/or measuring methods as required by the Contracting Officer to ensure  
378 compliance with subdivision (a) of this Article.

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

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

385 (e) The Contractor shall inform the Contracting Officer on or before the 20<sup>th</sup>  
386 calendar day of each month of the quantity of M&I Water taken during the preceding month.

387 (f) The provisions of subsections 6(a) through 6(c) above shall be included in  
388 any subcontract(s) for Water Delivered under this Contract.

389 RATES AND METHOD OF PAYMENT FOR WATER

390 7. (a) The Contractor shall pay the United States as provided in this Article for  
391 all Delivered Water at Rates, Charges, and the Tiered Pricing Component established in  
392 accordance with: (i) the Secretary's then-existing ratesetting policy for M&I Water, which  
393 ratesetting policy shall be amended, modified, or superseded only through a public notice and  
394 comment procedure; (ii) applicable Federal Reclamation law and associated rules and  
395 regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be  
396 made in accordance with Article 35 of this Contract. The Rates, Charges, and Tiered Pricing  
397 Component applicable to the Contractor upon the effective date of this Contract are set forth in  
398 Exhibit "B," as may be revised annually.

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

401 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall  
402 provide the Contractor an estimate of the Charges for Project Water that will be applied to the  
403 period October 1, of the current Calendar Year, through September 30, of the following Calendar  
404 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months  
405 to review and comment on such estimates. On or before September 15 of each Calendar Year,  
406 the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during  
407 the period October 1 of the current Calendar Year, through September 30, of the following  
408 Calendar Year, and such notification shall revise Exhibit "B."

409 (2) Prior to October 1 of each Calendar Year, the Contracting Officer

410 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component  
411 for Project Water for the following Year and the computations and cost allocations upon which  
412 those Rates are based. The Contractor shall be allowed not less than two months to review and  
413 comment on such computations and cost allocations. By December 31 of each Calendar Year,  
414 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing  
415 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B."

416 (c) At the time the Contractor submits the initial schedule for the delivery of  
417 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the  
418 Contractor shall make an advance payment to the United States equal to the total amount payable  
419 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water  
420 scheduled to be delivered pursuant to this Contract during the first two calendar months of the  
421 Year. Before the end of the first month and before the end of each calendar month thereafter, the  
422 Contractor shall make an advance payment to the United States, at the Rate(s) set under  
423 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract  
424 during the second month immediately following. Adjustments between advance payments for  
425 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of  
426 the following month; *Provided:* That any revised schedule submitted by the Contractor pursuant  
427 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this  
428 Contract during any month shall be accompanied with appropriate advance payment, at the Rates  
429 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such  
430 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to  
431 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no  
432 additional Project Water shall be delivered to the Contractor unless and until an advance

433 payment at the Rates then in effect for such additional Project Water is made. Final adjustment  
434 between the advance payments for the Water Scheduled and payments for the quantities of Water  
435 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no  
436 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried  
437 over under subdivision (f) of Article 3 of this Contract if such water is not delivered by the last  
438 day of February.

439 (d) The Contractor shall also make a payment in addition to the Rate(s) in  
440 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the  
441 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
442 month of delivery. The payments shall be consistent with the quantities of M&I Water Delivered  
443 as shown in the water delivery report for the subject month prepared by the Operating Non-  
444 Federal Entity or, if there is no Operating Non-Federal Entity, by the Contracting Officer. The  
445 water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered  
446 Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of  
447 Charges shall be made through the adjustment of payments due to the United States for Charges  
448 for the next month. Any amount to be paid for past due payment of Charges and the Tiered  
449 Pricing Component shall be computed pursuant to Article 18 of this Contract.

450 (e) The Contractor shall pay for any Water Delivered under subdivision (a),  
451 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to  
452 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting  
453 policies; *Provided:* That the Rate for Water Delivered under subdivision (f) of Article 3 of this  
454 Contract shall be no more than the otherwise applicable Rate for M&I Water under subdivision  
455 (a) of this Article.

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

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

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

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

477 (j) (1) Beginning at such time as deliveries of Project Water in a Year  
478 exceed 80 percent of the Contract Total, then before the end of the month following the month of

479 delivery the Contractor shall make an additional payment to the United States equal to the  
480 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water  
481 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the  
482 Contract Total, shall equal one-half of the difference between the Rate established under  
483 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water  
484 Rate, whichever is applicable. The Tiered Pricing Component for the amount of Water  
485 Delivered which exceeds 90 percent of the Contract Total shall equal the difference between (i)  
486 the Rate established under subdivision (a) of this Article and (ii) the M&I Full Cost Water Rate.

487 (2) Omitted.

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

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

501 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the

502 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates  
503 adjusted upward or downward to reflect the changed costs, if any, incurred by the Contracting  
504 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in  
505 accordance with the then-applicable Project ratesetting policy.

506 (m) Omitted.

507 (n) Omitted.

508 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

509 8. Omitted.

510 SALES, TRANSFERS, OR EXCHANGES OF WATER

511 9. (a) Project Water made available under this Contract shall not be sold,  
512 transferred, or exchanged to others outside the County of El Dorado, except for the purposes of  
513 making water available for use within the County of El Dorado. No sale, transfer, or exchange  
514 of Project Water under this Contract may take place without the prior written approval of the  
515 Contracting Officer, and no such sales, transfers, or exchanges shall be approved absent all  
516 appropriate environmental documentation, including but not limited to documents prepared  
517 pursuant to the National Environmental Policy Act (NEPA) and ESA. Such environmental  
518 documentation should include, as appropriate, an analysis of groundwater impacts and economic  
519 and social effects, including environmental justice, of the proposed water transfers on both the  
520 transferor and transferee.

521 (b) The parties agree that the lack of acknowledgement in this Contract by the  
522 Contracting Officer as to which county, watershed, or other area of origin, as those terms are  
523 utilized under California law, the Contractor lies within, if any, does not constitute, and shall not  
524 be construed as constituting: (i) a determination by the Contracting Officer as to the

525 applicability or non-applicability of Section 3405(a)(1)(M) of the CVPIA to the Contractor as a  
526 transferor or transferee of Project Water; (ii) an agreement or admission by the Contractor that  
527 the said section does not apply to them; or (iii) an agreement or admission by the Contractor that  
528 they do or do not lie within any given county, watershed, or area of origin, as those terms are  
529 utilized under California law.

530 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

543 (b) All advances for miscellaneous costs incurred for work requested by the  
544 Contractor pursuant to Article 23 of this Contract shall be adjusted to reflect the actual costs  
545 when the work has been completed. If the advances exceed the actual costs incurred, the  
546 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's  
547 advances, the Contractor will be billed for the additional costs pursuant to Article 23.

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TEMPORARY REDUCTIONS-RETURN FLOWS

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

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

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

570 claiming by, through, or under the Contractor.

571 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

577 (b) If there is a Condition of Shortage because of errors in physical operations  
578 of the Project, drought, other physical causes beyond the control of the Contracting Officer or  
579 actions taken by the Contracting Officer to meet current and future legal obligations, including  
580 but not limited to obligations under Section 7 of the Endangered Species Act and applicable  
581 Biological Opinions, except as provided in subdivision (a) of Article 17 of this Contract, then no  
582 liability shall accrue against the United States or any of its officers, agents, or employees for any  
583 damage, direct or indirect, arising therefrom.

584 (c) Omitted.

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

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

595 UNAVOIDABLE GROUNDWATER PERCOLATION

596 13. Omitted.

597 RULES, REGULATIONS, AND DETERMINATIONS



629 approval of the Contracting Officer and the execution of any contract determined by the  
630 Contracting Officer to be necessary, consistent with the following provisions:

631 (1) The Contractor may introduce non-Project water into Project  
632 facilities and deliver said water to lands within the Contractor's Service Area, subject to payment  
633 to the United States of an appropriate rate as determined by the applicable ratesetting policy and  
634 the Project use power policy, if such Project use power policy is applicable, each as amended,  
635 modified, or superseded from time to time.

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

642 (3) The United States shall not be responsible for control, care, or  
643 distribution of the non-Project water before it is introduced into or after it is delivered from the  
644 Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United  
645 States and their respective officers, agents, and employees, from any claim for damage to  
646 persons or property, direct or indirect, resulting from the acts of the Contractor, its officers,  
647 employees, agents, or assigns, act(s) in (i) extracting or diverting non-Project water from any  
648 source, or (ii) diverting such non-Project water into Project facilities.

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

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

657 OPINIONS AND DETERMINATIONS

658 17. (a) Where the terms of this Contract provide for actions to be based upon the  
659 opinion or determination of either party to this Contract, said terms shall not be construed as  
660 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or  
661 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly  
662 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,  
663 or unreasonable opinion or determination. Each opinion or determination by either party shall be  
664 provided in a timely manner. Nothing in subdivision (a) of Article 17 of this Contract is  
665 intended to or shall affect or alter the standard of judicial review applicable under Federal law to  
666 any opinion or determination implementing a specific provision of Federal law embodied in  
667 statute or regulation.

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

673 CHARGES FOR DELINQUENT PAYMENTS

674 18. (a) The Contractor shall be subject to interest, administrative, and penalty  
675 charges on delinquent payments. If a payment is not received by the due date, the Contractor

676 shall pay an interest charge on the delinquent payment for each day the payment is delinquent  
677 beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in  
678 addition to the interest charge, an administrative charge to cover additional costs of billing and  
679 processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor  
680 shall pay, in addition to the interest and administrative charges, a penalty charge for each day the  
681 payment is delinquent beyond the due date, based on the remaining balance of the payment due  
682 at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt  
683 collection services associated with a delinquent payment.

684 (b) The interest rate charged shall be the greater of either the rate prescribed  
685 quarterly in the Federal Register by the Department of the Treasury for application to overdue  
686 payments, or the interest rate of 0.5 percent per month. The interest rate charged will be  
687 determined as of the due date and remain fixed for the duration of the delinquent period.

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

691 EQUAL EMPLOYMENT OPPORTUNITY

692 19. The following language is required by Executive Order No. 11246 of September  
693 24, 1965, in all government contracts unless and until it is superseded or amended.

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

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

705 (b) The Contractor will, in all solicitations or advancements for employees  
706 placed by or on behalf of the Contractor, state that all qualified applicants will receive  
707 consideration for employment without regard to race, color, religion, sex, sexual orientation,  
708 gender identity, or national origin.

709 (c) The contractor will not discharge or in any other manner discriminate  
710 against any employee or applicant for employment because such employee or applicant has  
711 inquired about, discussed, or disclosed the compensation of the employee or applicant or another  
712 employee or applicant. This provision shall not apply to instances in which an employee who has  
713 access to the compensation information of other employees or applicants as a part of such

714 employee's essential job functions discloses the compensation of such other employees or  
715 applicants to individuals who do not otherwise have access to such information, unless such  
716 disclosure is in response to a formal complaint or charge, in furtherance of an investigation,  
717 proceeding, hearing, or action, including an investigation conducted by the employer, or is  
718 consistent with the contractor's legal duty to furnish information.

719 (d) The Contractor will send to each labor union or representative of workers  
720 with which he has a collective bargaining agreement or other contract or understanding, a notice,  
721 to be provided by the agency Contracting Officer, advising the labor union or workers'  
722 representative of the Contractor's commitments under section 202 of Executive Order No. 11246  
723 of September 24, 1965, and shall post copies of the notice in conspicuous places available to  
724 employees and applicants for employment.

725 (e) The Contractor will comply with all provisions of Executive Order No.  
726 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of  
727 Labor.

728 (f) The Contractor will furnish all information and reports required by  
729 Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of  
730 the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and  
731 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to  
732 ascertain compliance with such rules, regulations, and orders.

733 (g) In the event of the Contractor's noncompliance with the nondiscrimination  
734 clauses of this contract or with any of such rules, regulations, or orders, this contract may be  
735 canceled, terminated or suspended in whole or in part and the Contractor may be declared  
736 ineligible for further Government contracts in accordance with procedures authorized in  
737 Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and  
738 remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule,  
739 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

740 (h) The Contractor will include the provisions of paragraphs (a) through (h) in  
741 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
742 Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September  
743 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The  
744 Contractor will take such action with respect to any subcontract or purchase order as may be  
745 directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions  
746 for noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or  
747 is threatened with, litigation with a subcontractor or vendor as a result of such direction, the  
748 Contractor may request the United States to enter into such litigation to protect the interests of  
749 the United States.

750 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

751 20. (a) The obligation of the Contractor to pay the United States as provided in  
752 this Contract is a general obligation of the Contractor notwithstanding the manner in which the

753 obligation may be distributed among the Contractor's water users and notwithstanding the default  
754 of individual water users in their obligation to the Contractor.

755 (b) The payment of charges becoming due pursuant to this Contract is a  
756 condition precedent to receiving benefits under this Contract. The United States shall not make  
757 water available to the Contractor through Project facilities during any period in which the  
758 Contractor is in arrears in the advance payment of water Rates due the United States. The  
759 Contractor shall not deliver water under the terms and conditions of this Contract for lands or  
760 parties that are in arrears in the advance payment of water Rates as levied or established by the  
761 Contractor.

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

764 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

765 21. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
766 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
767 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135,  
768 Title III; 42 U.S.C. § 6101, et seq.), [Title II of the Americans with Disabilities Act of 1990  
769 (Pub. L. 101-336; 42 U.S.C. § 12131, et seq.)] [Title III of the Americans with Disabilities Act of  
770 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.)], and any other applicable civil rights laws,  
771 and with the applicable implementing regulations and any guidelines imposed by the U.S.  
772 Department of the Interior and/or Bureau of Reclamation.

773 (b) These statutes prohibit any person in the United States from being  
774 excluded from participation in, being denied the benefits of, or being otherwise subjected to  
775 discrimination under any program or activity receiving financial assistance from the Bureau of  
776 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this  
777 contract, the Contractor agrees to immediately take any measures necessary to implement this  
778 obligation, including permitting officials of the United States to inspect premises, programs, and  
779 documents.

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

788 (d) Complaints of discrimination against the Contractor shall be investigated  
789 by the Contracting Officer's Office of Civil Rights.

790 PRIVACY ACT COMPLIANCE

791 22. Omitted.

792 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

793 23. In addition to all other payments to be made by the Contractor pursuant to this  
794 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and  
795 detailed statement submitted by the Contracting Officer to the Contractor for such specific items  
796 of direct cost incurred by the United States for work requested by the Contractor associated with  
797 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies  
798 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed  
799 to in writing in advance by the Contractor. This Article shall not apply to costs for routine  
800 contract administration.

801 WATER CONSERVATION

802 24. (a) Prior to the delivery of water provided from or conveyed through  
803 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor  
804 shall be implementing an effective water conservation and efficiency program based on the  
805 Contractor's water conservation plan that has been determined by the Contracting Officer to meet  
806 the conservation and efficiency criteria for evaluating water conservation plans established under  
807 Federal law. The water conservation and efficiency program shall contain definite water  
808 conservation objectives, appropriate economically feasible water conservation measures, and  
809 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this  
810 Contract shall be contingent upon the Contractor's continued implementation of such water  
811 conservation program. In the event the Contractor's water conservation plan or any revised water  
812 conservation plan completed pursuant to subdivision (d) of Article 24 of this Contract have not  
813 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which

814 the Contracting Officer determines are beyond the control of the Contractor, water deliveries  
815 shall be made under this Contract so long as the Contractor diligently works with the Contracting  
816 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor  
817 immediately begins implementing its water conservation and efficiency program in accordance  
818 with the time schedules therein.

819 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of  
820 Article 3 of this Contract equal or exceed the then-current Standard Criteria, the Contractor shall  
821 implement the Practices identified by the time frames issued by the Mid-Pacific Region's then-  
822 current Standard Criteria for such M&I Water unless any such practice is determined by the  
823 Contracting Officer to be inappropriate for the Contractor.

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

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

833 (e) If the Contractor is engaged in direct ground-water recharge, such activity  
834 shall be described in the Contractor's water conservation plan. Such water conservation plan  
835 shall demonstrate sufficient lawful uses exist in the Contractor's Service Area so that using a  
836 long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such

837 uses and in compliance with Federal Reclamation Law.

838 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

839 25. Except as specifically provided in Article 16 of this Contract, the provisions of  
840 this Contract shall not be applicable to or affect non-Project water or water rights now owned or  
841 hereafter acquired by the Contractor or any user of such water within the Contractor's Service  
842 Area. Any such water shall not be considered Project Water under this Contract. In addition,  
843 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or  
844 any water user within the Contractor's Service Area acquires or has available under any other  
845 contract pursuant to Federal Reclamation law.

846 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

847 26. Omitted.

848 CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

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

854 BOOKS, RECORDS, AND REPORTS

855 28. (a) The Contractor shall establish and maintain accounts and other books and  
856 records pertaining to administration of the terms and conditions of this Contract, including the  
857 Contractor's financial transactions; water supply data; project operation, maintenance, and  
858 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop  
859 census), land-ownership, land-leasing and water-use data; and other matters that the Contracting  
860 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on  
861 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws  
862 and regulations, each party to this Contract shall have the right during office hours to examine  
863 and make copies of the other party's books and records relating to matters covered by this  
864 Contract.

865 (b) Notwithstanding the provisions of subdivision (a) of this Article, no  
866 books, records, or other information shall be requested from the Contractor by the Contracting

867 Officer unless such books, records, or information are reasonably related to the administration or  
868 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
869 time within which to provide the requested books, records, or information.

870 (c) Nothing in this Article 28 shall be construed to limit or constrain the  
871 ability of the Bureau of Reclamation to conduct contract compliance reviews of this Contract in  
872 accordance with Reclamation Manual Directives and Standards PEC 05-08, last revised  
873 November 20, 2014, as may be further revised, amended, modified, or superseded.

874 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

875 29. (a) The provisions of this Contract shall apply to and bind the successors and  
876 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
877 therein by either party shall be valid until approved in writing by the other party.

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

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

883 SEVERABILITY

884 30. In the event that a person or entity who is neither (i) a party to a Project contract,  
885 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)  
886 an association or other form of organization whose primary function is to represent parties to  
887 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or  
888 enforceability of a provision included in this Contract and said person, entity, association, or  
889 organization obtains a final court decision holding that such provision is legally invalid or

890 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),  
891 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such  
892 final court decision identify by mutual agreement the provisions in this Contract which must be  
893 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).  
894 The time periods specified above may only be extended by mutual agreement of the parties.  
895 Pending the completion of the actions designated above, to the extent it can do so without  
896 violating any applicable provisions of law, the United States shall continue to make the  
897 quantities of Project Water specified in this Contract available to the Contractor pursuant to the  
898 provisions of this Contract which were not found to be legally invalid or unenforceable in the  
899 final court decision.

900 RESOLUTION OF DISPUTES

901 31. Should any dispute arise concerning any provisions of this Contract, or the  
902 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to  
903 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting  
904 Officer referring any matter to Department of Justice, the party shall provide to the other party  
905 30 days' written notice of the intent to take such action; *Provided, That* such notice shall not be  
906 required where a delay in commencing an action would prejudice the interests of the party that  
907 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer  
908 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,  
909 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the  
910 United States may have.

911 OFFICIALS NOT TO BENEFIT

912 32. No Member of or Delegate to the Congress, Resident Commissioner, or official of  
913 the Contractor shall benefit from this Contract other than as a water user or landowner in the

914 same manner as other water users or landowners.

915 CHANGES IN CONTRACTOR'S SERVICE AREA

916 33. (a) While this Contract is in effect, no change may be made in the  
917 Contractor's organization, by inclusion or exclusion of lands or by any other changes which may  
918 affect the respective rights, obligations, privileges, and duties of either the United States or the  
919 Contractor under this Contract including, but not limited to, dissolution, consolidation, or  
920 merger, except upon the Contracting Officer's written consent.

921 (b) Within 30 days of receipt of a request for such a change, the Contracting  
922 Officer will notify the Contractor of any additional information required by the Contracting  
923 Officer for processing said request, and both parties will meet to establish a mutually agreeable  
924 schedule for timely completion of the process. Such process will analyze whether the proposed  
925 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii)  
926 impair the ability of the Contractor to pay for Project Water furnished under this Contract or to  
927 pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii) have  
928 an impact on any Project Water rights applications, permits, or licenses. In addition, the  
929 Contracting Officer shall comply with the NEPA and ESA. The Contractor will be responsible  
930 for all costs incurred by the Contracting Officer in this process, and such costs will be paid in  
931 accordance with Article 23 of this Contract.

932 FEDERAL LAWS

933 34. By entering into this Contract, the Contractor does not waive its rights to contest  
934 the validity or application in connection with the performance of the terms and conditions of this  
935 Contract of any Federal law or regulation; *Provided, That* the Contractor agrees to comply with  
936 the terms and conditions of this Contract unless and until relief from application of such Federal  
937 law or regulation to the implementing provision of the Contract is granted by a court of  
938 competent jurisdiction.

939 MEDIUM FOR TRANSMITTING PAYMENTS

940 35. (a) All payments from the Contractor to the United States under this Contract  
941 shall be by the medium requested by the United States on or before the date payment is due. The  
942 required method of payment may include checks, wire transfers, or other types of payment  
943 specified by the United States.

944 (b) Upon the effective date of the contract, the Contractor shall furnish the  
945 Contracting Officer with the Contractor’s taxpayer’s identification number (TIN). The purpose  
946 for requiring the Contractor’s TIN is for collecting and reporting any delinquent amounts arising  
947 out of the Contractor’s relationship with the United States.

948 CONTRACT DRAFTING CONSIDERATIONS

949 36. This Contract has been negotiated and reviewed by the parties hereto, each of  
950 whom is sophisticated in the matters to which this Contract pertains. The double-spaced Articles  
951 of this Contract have been drafted, negotiated, and reviewed by the parties, and no one party  
952 shall be considered to have drafted the stated articles. The single-spaced articles are standard  
953 articles and not negotiated.

954 CONFIRMATION OF CONTRACT

955 37. Promptly after the execution of this Contract, the Contractor will provide  
956 evidence to the Contracting Officer that, pursuant to the laws of the State of California, the  
957 Contractor is a legally constituted entity and the Contract is lawful, valid, and binding on the  
958 Contractor. This Contract shall not be binding on the United States until such evidence has been  
959 provided to the Contracting Officer’s satisfaction. In addition to other forms of evidence to meet  
960 the requirements of this Article, the Contractor may provide or the Contracting Officer may  
961 require a certified copy of a final decree of a court of competent jurisdiction in the State of  
962 California, confirming the proceedings on the part of the Contractor for the authorization of the  
963 execution of this contract.

964 NOTICES

965 38. Any notice, demand, or request authorized or required by this Contract shall be  
966 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
967 delivered to the Area Manager, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom,  
968 California 95630-1799, and on behalf of the United States, when mailed, postage prepaid, or  
969 delivered to the Board of Directors of the El Dorado County Water Agency, 3932 Ponderosa  
970 Road, Suite 200, Shingle Springs, California 95682. The designation of the addressee or the  
971 address may be changed by notice given in the same manner as provided in this Article for other

972 notices.

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

975                    THE UNITED STATES OF AMERICA

976                    By: \_\_\_\_\_  
977                                    Regional Director, Mid-Pacific Region  
978                                    Bureau of Reclamation

979                    EL DORADO COUNTY WATER AGENCY

980                    By: \_\_\_\_\_  
981                                    General Manager  
982                                    El Dorado County Water Agency

983    Attest:

984    By: \_\_\_\_\_  
985                    Secretary  
986                    Board of Directors  
987                    El Dorado County Water Agency

EXHIBIT A

El Dorado County Water Agency  
Service Area

**EXHIBIT B**

20-- Water Rates and Charges\*  
 EL DORADO COUNTY WATER AGENCY

	Cost-Of-Service Rate M&I
<b>O&amp;M and Cost of Service Rates</b>	
O&M Rate	\$
Water Marketing: \$	
Storage: \$	
Deficit Rate (Interest Bearing)	\$
Capital Rate	\$
CFO/PFR Adj. Rate	\$
<b>Total COS Rate (O&amp;M + Deficit + Capital + CFO/PFR)</b>	\$
<b>M&amp;I Full Cost Rate</b>	\$
<b>Tiered Pricing Components</b>	
2 <sup>nd</sup> Tier (>80% ≤ 90% of Contract Total) (Full Cost – COS)/2	\$
3 <sup>rd</sup> Tier (>90% of Contract Total) (Full Cost – COS)	\$
<b>Surcharges to the Restoration Fund</b>	\$

\*Rates shown are based on temporary contract rates for the proposed Service Area as shown in the Special Water Rates for 2019. Long-term contract rates are calculated according to ratesetting policy after the contract is executed.

Conveyance and Conveyance Pumping O&M costs have been removed for ratesetting purposes and will be directly billed to the contractor.

Restoration Fund surcharges are payments in addition to the water rates and are determined on a fiscal year basis (i.e., October 1 - September 30) pursuant to Section 3407 of the “Central Valley Project Improvement Act”, Public Law 102-575, Title XXXIV, 106 Stat. 4706.

Additional detail of rate components is available on the Internet at <https://www.usbr.gov/mp/cvpwaterrates/>

Recent Historical Use, as defined in the CVP M&I Water Shortage Policy, is \_\_\_\_\_ AF.