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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Exhibit “A” - Map of Contractor’s Service Area
Exhibit “B” - Rates and Charges
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 AMERICAN RIVER DIVISION

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

WITNESSETH, That:

EXPLANATORY RECITALS

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

WHEREAS, the United States constructed Folsom Dam and Reservoir and related facilities, hereinafter collectively referred to as the American River Division facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

WHEREAS, the rights to Project Water were acquired by the United States pursuant to California law for operation of the Project; and

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

WHEREAS, the Contractor has determined that, based on geographic settings and water need projections, the water needs of El Dorado County would be best met by sharing the annual quantity of Project water made available to the Contractor between El Dorado Irrigation District (EID) and Georgetown Divide Public Utility District by means of subcontracts with each of those agencies; and

WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting Officer that the Contractor has projected future demand for water use such that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use the quantity of Project Water to be made available to it pursuant to this Contract; and

WHEREAS, the economies of regions within the Project, including the Contractor’s, depend upon the availability of water, including water service from the Project; and

WHEREAS, the Secretary intends through coordination, cooperation, and
partnerships to pursue measures to improve water supply, water quality, and reliability of the
Project for all Project purposes; and

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

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

[11th] WHEREAS, the environmental compliance requirements for the effective date of
this Contract have been met by __________________________ (insert date and document
number or title); and

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

NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
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) “Calendar Year” shall mean the period January 1 through December 31,
(b) “Charges” shall mean the payments required by Federal Reclamation law in addition to the Rates and Tiered Pricing Component specified in this Contract as determined annually by the Contracting Officer pursuant to this Contract;

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

(d) “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;

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

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

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

(h) Omitted;

(i) Omitted

(j) “Full Cost Rate” shall mean an annual rate as determined by the Contracting Officer that shall amortize the expenditures for construction properly allocable to the Project irrigation or M&I functions, as appropriate, of facilities in service including all O&M deficits funded, less payments, over such periods as may be required under Federal Reclamation
law or applicable contract provisions. Interest will accrue on both the construction expenditures and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated in accordance with subsections 202(3)(B) and (3)(C) of the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA. The Full Cost Rate includes actual operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules and Regulations for the RRA;

(k) Omitted;

(l) Omitted;

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

(n) Omitted;

(o) “Municipal and Industrial (M&I) Water” shall mean Project Water used for municipal, industrial, and miscellaneous purposes not falling under the definition of “Irrigation Water” described in subdivision (m) of this Article 1 or within another category of water use under an applicable Federal authority;
“M&I Full Cost Water Rate” shall mean the Full Cost Rate applicable to the delivery of M&I Water;

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

Omitted;

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

“Project Contractors” shall mean all parties who have water service contracts for Project Water from the Project with the United States pursuant to Federal Reclamation law;

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

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

“Recent Historic Average” shall mean the most recent five-year average of the final forecast of Water Made Available to the Contractor pursuant to this Contract;

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

“Standard Criteria” shall mean the criteria developed in accordance with
Section 3405(e) of the CVPIA;

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

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

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

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

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

TERM OF CONTRACT

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

(b) Omitted.

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

(d) The Contracting Officer shall make a determination 10 years after the effective date of this Contract, and every five years thereafter during the term of this Contract, of whether a conversion to a contract under subsection 9(c)(1) of Section 9 of the Reclamation Project Act of 1939 can be accomplished. The Contracting Officer anticipates that during the term of this Contract, all authorized Project construction expected to occur will have occurred, and on that basis the Contracting Officer agrees upon such completion to allocate all costs that are properly assignable to the Contractor, and agrees further that, at any time after such allocation is made, and subject to satisfaction of the condition set out in this subdivision, this Contract shall, at the request of the Contractor, be converted to a contract under said subsection (c)(1) of Section 9, subject to applicable Federal law and under stated terms and conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such conversion to occur shall be a determination by the Contracting Officer that, account being taken of the amount credited to return by the Contractor as provided for under Federal Reclamation law, the remaining amount of construction costs assignable for ultimate return by the Contractor can probably be repaid to the United States within the term of a contract under said subsection (c)(1) of Section 9. If the remaining amount of costs that are properly assignable to the Contractor cannot be determined during the term of this Contract, the Contracting Officer shall notify the Contractor, and provide the reason(s) why such a determination could not be made.
Further, the Contracting Officer shall make such a determination as soon thereafter as possible so as to permit, upon request of the Contractor and satisfaction of the condition set out above, conversion to a contract under said subsection (c)(1) of Section 9. In the event such determination of costs has not been made at a time which allows conversion of this Contract during the term of this Contract or the Contractor has not requested conversion of this Contract within such term, the parties shall incorporate in any subsequent renewal contract as described in subdivision (c) of this Article a provision that carries forth in substantially identical terms the provisions of this subdivision.

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

WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

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

(b) Because the capacity of the Project to deliver Project Water has been constrained in recent years and may be constrained in the future due to many factors including...
hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor actually receiving the amount of Project Water set out in subdivision (a) of this Article in any given Year is uncertain. Nothing in subdivision (b) of this Article shall affect the rights and obligations of the parties under any provision of this Contract.

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

(d) The Contractor shall make reasonable and beneficial use of all water furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in-lieu), ground-water banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted within the Contractor’s Service Area which are consistent with applicable State law and result in use consistent with Federal Reclamation law will be allowed; Provided: That any direct recharge program(s) is (are) described in the Contractor’s water conservation plan submitted pursuant to Article 24 of this Contract; Provided further: That such water conservation plan demonstrates sufficient lawful uses exist in the Contractor’s Service Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation law. Groundwater recharge programs, groundwater banking programs, surface water storage programs, and other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted outside the Contractor’s Service Area may be permitted upon written approval of the Contracting Officer, which approval will be based upon environmental documentation, Project Water rights, and Project operational concerns. The Contracting Officer will address such concerns in regulations, policies, or guidelines.
(e) The Contractor shall comply with all requirements applicable to the Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as amended, that are within the Contractor’s legal authority to implement. Nothing herein shall be construed to prevent the Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with respect to any biological opinion or other environmental documentation referred to in this Article.

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

(g) The Contractor may request permission to reschedule for use during the subsequent Year some or all of the Water Made Available to the Contractor during the current Year referred to as “carryover”. The Contractor may request permission to use during the
The Contractor’s right pursuant to Federal Reclamation law and applicable State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract, during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this Contract and any renewals thereof. Nothing in the preceding sentence shall affect the Contracting Officer’s ability to impose shortages under Article 11 or subdivision (b) of Article 12 of this Contract or applicable provisions of any subsequent renewal contracts.

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

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

TIME FOR DELIVERY OF WATER

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

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

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

(d) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractor in accordance with the
initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any
written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided:
That water delivered by means of an exchange shall be exchanged and delivered only within the
terms of state water rights for said water, including any permits, licenses, or approvals issued by
the California State Water Resources Control Board (SWRCB) relating to those rights.

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

(b) The Contractor may enter into subcontracts for the resale and distribution
of water furnished pursuant to this Contract. The terms and conditions of each subcontract shall
be consistent with the provisions of the Record of Decision approving this Contract and the
terms of this Contract, and a copy shall be provided to the Contracting Officer for review and
approval before the Contractor executes any such subcontract(s). Nothing herein or therein
contained shall be deemed in any way to release the Contractor from its primary liability to the
United States hereunder with respect to each and all of the obligations undertaken by the
Contractor in this Contract. To the maximum extent allowed by law, when any failure to comply
with this Contract by the Contractor is due to the action or inaction, solely, of any subcontractor
and such failure to comply results in denial or discontinuation of the delivery of water under this
Contract, the Contractor shall still be entitled to the benefits of this Contract if, and only if, the
Contractor ceases deliveries of water under this Contract to the noncomplying subcontractor until
such time as non-compliance is resolved.

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

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

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

MEASUREMENT OF WATER WITHIN THE SERVICE AREA

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

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

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

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

(e) The Contractor shall inform the Contracting Officer on or before the 20th calendar day of each month of the quantity of M&I Water taken during the preceding month.
(f) The provisions of subsections 6(a) through 6(c) above shall be included in any subcontract(s) for Water Delivered under this Contract.

RATES AND METHOD OF PAYMENT FOR WATER

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

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

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

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

(c) At the time the Contractor submits the initial schedule for the delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall make an advance payment to the United States equal to the total amount payable pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be delivered pursuant to this Contract during the first two calendar months of the Year. Before the end of the first month and before the end of each calendar month thereafter, the Contractor shall make an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract during the second month immediately following. Adjustments between advance payments for Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of the following month; Provided: That any revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract during any month shall be accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered to the Contractor in advance of such payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and until an advance
payment at the Rates then in effect for such additional Project Water is made. Final adjustment
between the advance payments for the Water Scheduled and payments for the quantities of Water
Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
later than April 30th of the following Year, or 60 days after the delivery of Project Water carried
over under subdivision (f) of Article 3 of this Contract if such water is not delivered by the last
day of February.

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

(e) The Contractor shall pay for any Water Delivered under subdivision (a), (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies; Provided: That the Rate for Water Delivered under subdivision (f) of Article 3 of this Contract shall be no more than the otherwise applicable Rate for M&I Water under subdivision (a) of this Article.
(f) Payments to be made by the Contractor to the United States under this Contract may be paid from any revenues available to the Contractor.

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

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

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

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

(2) Omitted.

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

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

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

(m) Omitted.

(n) Omitted.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. Omitted.

SALES, TRANSFERS, OR EXCHANGES OF WATER

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

(b) The parties agree that the lack of acknowledgement in this Contract by the Contracting Officer as to which county, watershed, or other area of origin, as those terms are utilized under California law, the Contractor lies within, if any, does not constitute, and shall not be construed as constituting: (i) a determination by the Contracting Officer as to the
applicability or non-applicability of Section 3405(a)(1)(M) of the CVPIA to the Contractor as a transferor or transferee of Project Water; (ii) an agreement or admission by the Contractor that the said section does not apply to them; or (iii) an agreement or admission by the Contractor that they do or do not lie within any given county, watershed, or area of origin, as those terms are utilized under California law.

APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

(c) Omitted.

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

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

UNAVOIDABLE GROUNDWATER PERCOLATION


RULES, REGULATIONS, AND DETERMINATIONS
14. (a) The parties agree that the delivery of water or the use of Federal facilities pursuant to this Contract is subject to Federal reclamation law, as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Contract that are consistent with its expressed and implied provisions, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with the Contractor.

PROTECTION OF WATER AND AIR QUALITY

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

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

(c) This Article will not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

WATER ACQUIRED BY THE CONTRACTOR

OTHER THAN FROM THE UNITED STATES

16. (a) Omitted.

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

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

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

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

(4) Diversion of such non-Project water into Project facilities shall be consistent with all applicable laws, and if involving groundwater, consistent with any applicable groundwater management plan for the area from which it was extracted.
After Project purposes are met, as determined by the Contracting Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of the facilities declared to be available by the Contracting Officer for conveyance and transportation of non-Project water prior to any such remaining capacity being made available to non-Project contractors.

OPINIONS AND DETERMINATIONS

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

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

CHARGES FOR DELINQUENT PAYMENTS

18. (a) The Contractor shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the Contractor
shall pay an interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in addition to the interest charge, an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor shall pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt collection services associated with a delinquent payment.

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

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

EQUAL EMPLOYMENT OPPORTUNITY

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

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

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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.

(b) The Contractor will, in all solicitations or advancements 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, sexual orientation, gender identity, or national origin.

(c) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such
employee’s essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor’s legal duty to furnish information.

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

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

(f) The Contractor will furnish all information and reports required by Executive Order No. 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.

(g) 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 No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

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

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS


(b) These statutes prohibit any person in the United States from being excluded from participation in, being denied the benefits of, or being otherwise subjected to discrimination under any program or activity receiving financial assistance from the Bureau of Reclamation on the grounds of race, color, national origin, disability, or age. 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.

(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.

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

PRIVACY ACT COMPLIANCE
22. Omitted.

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

WATER CONSERVATION

24. (a) Prior to the delivery of water provided from or conveyed through Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be implementing an effective water conservation and efficiency program based on the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the conservation and efficiency criteria for evaluating water conservation plans established under Federal law. The water conservation and efficiency program shall contain definite water conservation objectives, appropriate economically feasible water conservation measures, and time schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract shall be contingent upon the Contractor’s continued implementation of such water conservation program. In the event the Contractor's water conservation plan or any revised water conservation plan completed pursuant to subdivision (d) of Article 24 of this Contract have not yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
the Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be made under this Contract so long as the Contractor diligently works with the Contracting Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor immediately begins implementing its water conservation and efficiency program in accordance with the time schedules therein.

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

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

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

(e) If the Contractor is engaged in direct ground-water recharge, such activity shall be described in the Contractor’s water conservation plan. Such water conservation plan shall demonstrate sufficient lawful uses exist in the Contractor’s Service Area so that using a long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such
uses and in compliance with Federal Reclamation Law.

EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY


CONTINGENT UPON APPROPRIATION OR ALLOTMENT OF FUNDS

27. 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.

BOOKS, RECORDS, AND REPORTS

28. (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; project operation, maintenance, and replacement logs; project land and rights-of-way use 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 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.

(b) Notwithstanding the provisions of subdivision (a) of this Article, no 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
871 (c) Nothing in this Article 28 shall be construed to limit or constrain the
872 ability of the Bureau of Reclamation to conduct contract compliance reviews of this Contract in
873 accordance with Reclamation Manual Directives and Standards PEC 05-08, last revised
874 November 20, 2014, as may be further revised, amended, modified, or superseded.
875
876 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED
877
878 (a) The provisions of this Contract shall apply to and bind the successors and
879 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
880 therein by either party shall be valid until approved in writing by the other party.
881
882 (b) The assignment of any right or interest in this Contract by either party
883 shall not interfere with the rights or obligations of the other party to this Contract absent the
884 written concurrence of said other party.
885
886 (c) The Contracting Officer shall not unreasonably condition or withhold
887 approval of any proposed assignment.
888
889 SEVERABILITY
890
891 (a) In the event that a person or entity who is neither (i) a party to a Project contract,
892 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
893 an association or other form of organization whose primary function is to represent parties to
894 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
895 enforceability of a provision included in this Contract and said person, entity, association, or
896 organization obtains a final court decision holding that such provision is legally invalid or
897
unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
final court decision identify by mutual agreement the provisions in this Contract which must be
revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).
The time periods specified above may only be extended by mutual agreement of the parties.
Pending the completion of the actions designated above, to the extent it can do so without
violating any applicable provisions of law, the United States shall continue to make the
quantities of Project Water specified in this Contract available to the Contractor pursuant to the
provisions of this Contract which were not found to be legally invalid or unenforceable in the
final court decision.

RESOLUTION OF DISPUTES

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

OFFICIALS NOT TO BENEFIT

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

CHANGES IN CONTRACTOR’S SERVICE AREA

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

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

FEDERAL LAWS

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

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

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

CONTRACT DRAFTING CONSIDERATIONS

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

CONFIRMATION OF CONTRACT

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

NOTICES

38. Any notice, demand, or request authorized or required by this Contract shall be deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area Manager, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom, California 95630-1799, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the El Dorado County Water Agency, 3932 Ponderosa Road, Suite 200, Shingle Springs, California 95682. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other
972 notices.
IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and year first above written.

THE UNITED STATES OF AMERICA

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

EL DORADO COUNTY WATER AGENCY

By: ________________________________
General Manager
El Dorado County Water Agency

Attest:

By: ________________________________
Secretary
Board of Directors
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

<table>
<thead>
<tr>
<th><strong>O&amp;M and Cost of Service Rates</strong></th>
<th><strong>Cost-Of-Service Rate M&amp;I</strong></th>
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<td>O&amp;M Rate</td>
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<td>Water Marketing: $</td>
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<td>Storage: $</td>
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<td>Deficit Rate (Interest Bearing)</td>
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<tr>
<td>Capital Rate</td>
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<tr>
<td>CFO/PFR Adj. Rate</td>
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<td><strong>Total COS Rate</strong> (O&amp;M + Deficit + Capital + CFO/PFR)</td>
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<td><strong>M&amp;I Full Cost Rate</strong></td>
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<tr>
<th><strong>Tiered Pricing Components</strong></th>
<th><strong>Cost</strong></th>
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<tr>
<td>2\textsuperscript{nd} Tier (&gt;80% ≤ 90% of Contract Total)</td>
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<td>3\textsuperscript{rd} Tier (&gt;90% of Contract Total)</td>
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<td><strong>Surcharges to the Restoration Fund</strong></td>
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</tbody>
</table>

*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.