

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

CONTRACT BETWEEN THE UNITED STATES
AND
EL DORADO IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
AND FACILITATES REPAYMENT

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1 THIS CONTRACT, is made this ____ day of _____, 2020, 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), October 27, 1986 (100 Stat. 3050),
6 as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and the Water
7 Infrastructure Improvements for the Nation Act (Public Law 114-322, 130 Stat. 1628), Section
8 4011 (a-d) and (f) (“WIIN Act”), all collectively hereinafter referred to as Federal Reclamation
9 law, between the UNITED STATES OF AMERICA, hereinafter referred to as the United States,
10 represented by the officer executing this Contract, hereinafter referred to as the Contracting
11 Officer, and EL DORADO IRRIGATION DISTRICT, hereinafter referred to as the Contractor,
12 a public agency of the State of California, duly organized, existing, and acting pursuant to the
13 laws thereof,

14 WITNESSETH, That:

15 EXPLANATORY RECITALS

16 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
17 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for
18 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection

19 and restoration, generation and distribution of electric energy, salinity control, navigation and
20 other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River,
21 and the San Joaquin River and their tributaries; and

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

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

27 [4th] WHEREAS, the Contractor and the United States entered into Contract
28 No. 14-06-200-1357A, as amended, which established terms for the delivery to the
29 Contractor of Project Water from the American River Division from January 1, 1965,
30 through December 31, 2004, to the El Dorado Hills area (hereinafter referred to as the El
31 Dorado Hills contract); and

32 [4.1] WHEREAS, the County of El Dorado and the United States entered into Contract
33 No. 14-06-200-7312A, dated July 25, 1958, which established terms for the delivery to the
34 Contractor of Project Water from the American River Division through October 31, 1999, to the
35 Lake Hills Estate area (hereinafter referred to as the Lake Hills Estates contract); and

36 [4.2] WHEREAS, the County of El Dorado officially assigned the Lake Hills Estates
37 contract to the Contractor on December 18, 1973, with the approval of the United States; and

38 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection
39 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
40 interim renewal contracts identified as Contract Nos. 14-06-200-7312A-IR1, 14-06-200-7312A-
41 IR2, 14-06-200-7312A-IR3, 14-06-200-7312A-IR4, 14-06-200-7312A-IR5, 14-06-200-7312A-

42 IR6, and 14-06-200-7312A-IR7, which provided for the continued water service to the
43 Contractor from March 1, 2004, through February 29, 2006; and

44 [5.1] WHEREAS, Article 3(h) of Contract No. 14-06-200-7312A-IR2 states that the El
45 Dorado Hills and Lake Hills Estates contracts will be fully integrated into one long-term renewal
46 contract; and

47 [6th] WHEREAS, on February 28, 2006, the United States and the Contractor entered
48 into Contract No. 14-06-200-1357A-LTR1, hereinafter referred to as the Existing Contract,
49 which established terms for the delivery of Project Water to the Contractor from the American
50 River Division, and was in effect on the date the WIIN Act was enacted; and

51 [7th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
52 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
53 reasonable and beneficial use and/or has demonstrated projected future demand for water use such
54 that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use
55 the quantity of Project Water to be made available to it pursuant to this Contract; and

56 [8th] WHEREAS, water obtained from the Project has been relied upon by urban areas
57 within California for more than 50 years, and is considered by the Contractor as an essential
58 portion of its water supply; and

59 [9th] WHEREAS, the economies of regions within the Project, including the
60 Contractor's, depend upon the continued availability of water, including water service from the
61 Project; and

62 [10th] WHEREAS, the Secretary of the Interior (Secretary) intends through
63 coordination, cooperation, and partnerships to pursue measures to improve water supply, water
64 quality, and reliability of the Project for all Project purposes; and

65 [10.1] WHEREAS, the Contractor and the water users in its Service Area have improved
66 and will continue to improve water use efficiency through water conservation, water reclamation,
67 and other Best Management Practices; however, implementing these measures has reduced and
68 will continue to reduce the ability of the Contractor and the water users in its Service Area to
69 withstand a Condition of Shortage; and

70 [11th] WHEREAS, the mutual goals of the United States and the Contractor include: to
71 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
72 repayment of the Project as required by law; to guard reasonably against Project Water
73 shortages; to achieve a reasonable balance among competing demands for use of Project Water;
74 and to comply with all applicable environmental statutes, all consistent with the legal obligations
75 of the United States relative to the Project; and

76 [12th] WHEREAS, the parties intend by this Contract to develop a more cooperative
77 relationship in order to achieve their mutual goals; and

78 [13th] WHEREAS, on December 16, 2016, the 114th Congress of the United States of
79 America enacted the WIIN Act; and

80 [14th] WHEREAS, WIIN Act, Section 4011(a)(1) provides that “upon request of the
81 contractor, the Secretary of the Interior shall convert any water service contract in effect on the
82 date of enactment of this subtitle and between the United States and a water users’ association
83 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under
84 mutually agreeable terms and conditions.”; and

85 [15th] WHEREAS, WIIN Act, Section 4011(a)(1) further provides that “the manner of
86 conversion under this paragraph shall be as follows: (A) Water service contracts that were
87 entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under

88 this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat.
89 1195)”; and “(B) Water service contracts that were entered under subsection (c)(2) of section 9
90 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be
91 converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

92 [16th] WHEREAS, WIIN Act, Section 4011(a)(4)(C) further provides all contracts
93 entered into pursuant to WIIN Act, Section 4011(a)(1), (2), and (3) shall “not modify other water
94 service, repayment, exchange and transfer contractual rights between the water users’ association
95 [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the
96 water users’ association [Contractor] and their landowners as provided under State law.”; and

97 [17th] WHEREAS, WIIN Act, Section 4011(d)(3) and (4) provides that “implementation
98 of the provisions of this subtitle shall not alter... (3) the priority of a water service or repayment
99 contractor to receive water; or (4) except as expressly provided in this section, any obligations
100 under the reclamation law, including the continuation of Restoration Fund charges pursuant to
101 section 3407(d) (Public Law 102-575), of the water service and repayment contractors making
102 prepayments pursuant to this section.”; and

103 [18th] WHEREAS, upon the request of the Contractor, the WIIN Act directs the
104 Secretary to convert municipal and industrial (M&I) water service contracts into repayment
105 contracts, amend existing repayment contracts, and allow contractors to prepay their construction
106 cost obligations pursuant to applicable Federal Reclamation law; and

107 [19th] WHEREAS, the Contractor requested that its Existing Contract be converted
108 under the WIIN Act, and the United States and the Contractor have agreed to convert the
109 Existing Contract into this repayment contract, consistent with the Federal Reclamation law; and

110 [20th] WHEREAS, consistent with the WIIN Act, in entering into this Contract, the
111 parties do not intend to change or delete any terms or provisions of the Existing Contract except
112 as expressly set forth in this Contract; and

113 [21th] WHEREAS, the United States and the Contractor agree that this Contract
114 complies with WIIN Act, Section 4011; and

115 [22nd] WHEREAS, the Contracting Officer acknowledges that, in addition to this
116 Contract, the Contractor exercises its own water rights through two Long-Term Warren Act
117 Contracts at Folsom Reservoir and that nothing contained in this Contract shall be construed to
118 impair Contractor's ability to continue exercising either Long-Term Warren Act Contract.

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

121 DEFINITIONS

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

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

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

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

132 (d) "Contracting Officer" shall mean the Secretary's duly authorized
133 representative acting pursuant to this Contract or applicable Federal Reclamation law or
134 regulation;

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

137 (f) "Contractor's Service Area" shall mean the area to which the Contractor is
138 permitted to provide Project Water under this Contract as described in Exhibit "A" attached
139 hereto, which may be modified from time to time in accordance with Article 34 of this Contract
140 without amendment of this Contract;

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

143 (h-i) Omitted;

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

155 (k-l) Omitted;

156 (m) "Irrigation Water" shall mean the use of Project Water to irrigate land
157 primarily for the production of commercial agricultural crops or livestock, and domestic and
158 other uses that are incidental thereto;

159 (n) Omitted;

160 (o) "Municipal and Industrial Water" ("M&I Water") shall mean the use of
161 Project Water for municipal, industrial, and miscellaneous other purposes not falling under the
162 definition of Irrigation Water or within another category of water use under an applicable Federal
163 authority.

164 Water uses established before [Effective Date] and known to the Contracting Officer and the
165 Contractor are deemed to be authorized uses of M&I Water;

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

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

171 (r) Omitted;

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

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

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

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

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

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

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

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

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

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

201 (cc) "Year" shall mean the period from and including March 1 of each
202 Calendar Year through the last day of February of the following Calendar Year;

203 (dd) “Additional Capital Obligation” shall mean construction costs or other
204 capitalized costs incurred after [Effective Date] or not reflected in the Existing Capital
205 Obligation as defined herein and in accordance with WIIN Act, Section 4011, subsection
206 (a)(3)(B);

207 (ee) “Existing Capital Obligation” shall mean the remaining amount of
208 construction costs or other capitalized costs allocable to the Contractor as described in Section
209 4011, subsection (a)(3)(A) of the WIIN Act, and as identified in the Central Valley Project
210 Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, in the Final
211 2020 Ratebooks, as adjusted to reflect payments not reflected in such schedule. The Contracting
212 Officer has computed the Existing Capital Obligation and such amount is set forth in Exhibit C,
213 which is incorporated herein by reference; and

214 (ff) “Repayment Obligation” shall mean the amount due and payable to the
215 United States, pursuant to Section 4011(a)(3)(A) of the WIIN Act.

216 TERM OF CONTRACT

217 2. (a) This Contract shall be effective XXX X, XXXX ("Effective Date") and
218 shall continue so long as the Contractor pays applicable Rates and Charges under this Contract,
219 consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable,
220 and applicable law;

221 (1) *Provided*, That the Contracting Officer shall not seek to terminate
222 this Contract for failure to fully or timely pay applicable Rates and Charges by the Contractor,
223 unless the Contracting Officer has first provided at least sixty (60) calendar days written notice
224 to the Contractor of such failure to pay and Contractor has failed to cure such failure to pay, or to

225 diligently commence and maintain full curative payments satisfactory to the Contracting Officer
226 within the sixty (60) calendar days' notice period;

227 (2) *Provided further*, That the Contracting Officer shall not seek to
228 suspend making water available or declaring Water Made Available pursuant to this Contract for
229 non-compliance by the Contractor with the terms of this Contract or Federal law, unless the
230 Contracting Officer has first provided at least thirty (30) calendar days written notice to the
231 Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence
232 curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully
233 cured within the thirty (30) calendar days' notice period. If the Contracting Officer has
234 suspended making water available pursuant to this paragraph, upon cure of such noncompliance
235 satisfactory to the Contracting Officer, the Contracting Officer shall resume making water
236 available and declaring Water Made Available pursuant to this Contract;

237 (3) *Provided further*, That this Contract may be terminated at any time
238 by mutual consent of the parties hereto.

239 (b) Upon complete payment of the Repayment Obligation by the Contractor,
240 and notwithstanding any Additional Capital Obligation that may later be established, the acreage
241 limitations, reporting, and the Full Cost pricing provisions of the Reclamation Reform Act of
242 1982 shall no longer be applicable to the Contractor pursuant to this Contract.

243 (c) Omitted.

244 (d) Notwithstanding any provision of this Contract, the Contractor reserves
245 and shall have all rights and benefits, under the Act of June 21, 1963 (77 Stat. 68), to the extent
246 allowed by law.

247 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

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

254 (b) Because the capacity of the Project to deliver Project Water has been
255 constrained in recent years and may be constrained in the future due to many factors including
256 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
257 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this
258 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the
259 programmatic environmental impact statement required by Section 3409 of the CVPIA,
260 projected that the Contract Total set forth in this Contract will not be available to the Contractor
261 in many years. At the time of the Existing Contract, the Recent Historic Average of Water Made
262 Available to the Contractor was 6,716 acre feet. Nothing in subdivision (b) of this Article shall
263 affect the rights and obligations of the parties under any provision of this Contract.

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

266 (d) The Contractor shall make reasonable and beneficial use of all water
267 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu),
268 ground-water banking programs, surface water storage programs, and other similar programs
269 utilizing Project Water or other water furnished pursuant to this Contract conducted within the

270 Contractor's Service Area which are consistent with applicable State law and result in use
271 consistent with Federal Reclamation law will be allowed; Provided, That any direct recharge
272 program(s) is (are) described in the Contractor's water conservation plan submitted pursuant to
273 Article 25 of this Contract; Provided, further, That such water conservation plan demonstrates
274 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average,
275 the quantity of Delivered Water is demonstrated to be reasonable for such uses and in
276 compliance with Federal Reclamation law. Ground-water recharge programs, groundwater
277 banking programs, surface water storage programs, and other similar programs utilizing Project
278 Water or other water furnished pursuant to this Contract conducted outside the Contractor's
279 Service Area may be permitted upon written approval of the Contracting Officer, which approval
280 will be based upon environmental documentation, Project Water rights, and Project operational
281 concerns. The Contracting Officer will address such concerns in regulations, policies, or
282 guidelines.

283 (e) The Contractor shall comply with requirements applicable to the
284 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
285 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),
286 as amended, that are within the Contractor's legal authority to implement. The Existing
287 Contract, which evidences in excess of 50 years of diversions for M&I purposes of the quantities
288 of water provided in subdivision (a) of Article 3 of this Contract, will be considered in
289 developing an appropriate baseline for the biological assessment prepared pursuant to the ESA,
290 and any other needed environmental review. Nothing herein shall be construed to prevent the
291 Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with
292 respect to any biological opinion or other environmental documentation referred to in this Article.

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

306 (g) The Contractor may request permission to reschedule for use during the
307 subsequent Year some or all of the Water Made Available to the Contractor during the current
308 Year, referred to as “carryover”. The Contractor may request permission to use during the
309 current Year a quantity of Project Water which may be made available by the United States to
310 the Contractor during the subsequent Year, referred to as “preuse”. The Contracting Officer’s
311 written approval may permit such uses in accordance with applicable statutes, regulations,
312 guidelines, and policies.

313 (h) The Contractor’s right pursuant to Federal Reclamation law and applicable
314 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract shall
315 not be disturbed, and this Contract shall continue so long as the Contractor pays applicable Rates

316 and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the Act of August 4,
317 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding sentence shall
318 affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of
319 Article 12 of this Contract.

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

324 (j) The Contracting Officer shall make reasonable efforts to protect the water
325 rights necessary for the Project and to provide the water available under this Contract. The
326 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
327 extent permitted by law, in administrative proceedings related to the Project Water rights;
328 *Provided*, That the Contracting Officer retains the right to object to the substance of the
329 Contractor's position in such a proceeding; *Provided further*, That in such proceedings the
330 Contracting Officer shall recognize the Contractor has a legal right under the terms of this
331 Contract to use Project Water.

332 TIME FOR DELIVERY OF WATER

333 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer
334 shall announce the Contracting Officer's expected declaration of the Water Made Available.
335 Such declaration will be expressed in terms of both Water Made Available and the Recent
336 Historic Average and will be updated monthly, and more frequently if necessary, based on
337 then-current operational and hydrologic conditions and a new declaration with changes, if any, to
338 the Water Made Available will be made. The Contracting Officer shall provide forecasts of

339 Project operations and the basis of the estimate, with relevant supporting information, upon the
340 written request of the Contractor. Concurrently with the declaration of the Water Made
341 Available, the Contracting Officer shall provide the Contractor with the updated Recent Historic
342 Average.

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

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

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

358 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

359 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
360 Contract shall be delivered to the Contractor at the Contractor's point of diversion in Folsom

361 Lake and any additional point or points of delivery either on Project facilities or another location
362 or locations mutually agreed to in writing by the Contracting Officer and the Contractor.

363 (b) Omitted.

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

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

375 (e) The Contracting Officer shall not be responsible for the control, carriage,
376 handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
377 Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor
378 shall indemnify the United States, its officers, employees, agents, and assigns on account of
379 damage or claim of damage of any nature whatsoever for which there is legal responsibility,
380 including property damage, personal injury, or death arising out of or connected with the control,
381 carriage, handling, use, disposal, or distribution of such Water Delivered beyond such delivery
382 points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting
383 Officer or any of its officers, employees, agents, or assigns with the intent of creating the

384 situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or
385 any of its officers, employees, agents, or assigns; (iii) negligence of the Contracting Officer or
386 any of its officers, employees, agents, or assigns; or (iv) damage or claims resulting from a
387 malfunction of facilities owned and/or operated by the United States.

388 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

389 6. (a) The Contractor has established a measuring program satisfactory to the
390 Contracting Officer. The Contractor shall ensure that all surface water delivered for M&I
391 purposes is measured at each M&I service connection. The water measuring devices or water
392 measuring methods of comparable effectiveness must be acceptable to the Contracting Officer.
393 The Contractor shall be responsible for installing, operating, and maintaining and repairing all
394 such measuring devices and implementing all such water measuring methods at no cost to the
395 United States. The Contractor shall use the information obtained from such water measuring
396 devices or water measuring methods to ensure its proper management of the water, to bill water
397 users for water delivered by the Contractor; and, if applicable, to record water delivered for M&I
398 purposes by customer class as defined in the Contractor's water conservation plan provided for
399 in Article 25 of this Contract. Nothing herein contained, however, shall preclude the Contractor
400 from establishing and collecting any charges, assessments, or other revenues authorized by
401 California law. The Contractor shall include a summary of all its annual surface water deliveries
402 in the annual report described in subdivision (c) of Article 25.

403 (b) To the extent the information has not otherwise been provided, upon
404 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
405 report describing the measurement devices or water measuring methods being used or to be used
406 to implement subdivision (a) of this Article and identifying the M&I service connections or

407 alternative measurement programs approved by the Contracting Officer, at which such
408 measurement devices or water measuring methods are being used, and, if applicable, identifying
409 the locations at which such devices and/or methods are not yet being used including a time
410 schedule for implementation at such locations. The Contracting Officer shall advise the
411 Contractor in writing within 60 days as to the adequacy and necessary modifications, if any, of
412 the measuring devices or water measuring methods identified in the Contractor's report and if the
413 Contracting Officer does not respond in such time, they shall be deemed adequate. If the
414 Contracting Officer notifies the Contractor that the measuring devices or methods are
415 inadequate, the parties shall within 60 days following the Contracting Officer's response,
416 commence to negotiate in good faith how, and the earliest practicable date by which, the
417 Contractor shall modify said measuring devices and/or measuring methods as required by the
418 Contracting Officer to ensure compliance with subdivision (a) of this Article.

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

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

425 (e) The Contractor shall inform the Contracting Officer on or before the 20th
426 calendar day of each month of the quantity of M&I Water taken during the preceding month.

427 RATES, METHOD OF PAYMENT FOR WATER
428 AND ACCELERATED REPAYMENT OF FACILITIES

429 7. (a) Notwithstanding the Contractor's full prepayment of the Repayment
430 Obligation pursuant to Section 4011, subsection (a)(3)(A) of the WIIN Act, as set forth in

431 Exhibit C, and any payments required pursuant to Section 4011, subsection (b) of the WIIN Act,
432 to reflect the adjustment for the final cost allocation as described in this Article, subsection (b),
433 the Contractor's Project construction and other cost obligations shall be determined in
434 accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and
435 the Secretary's then-existing ratesetting policy for M&I Water, consistent with the WIIN Act,
436 and such ratesetting policies shall be amended, modified, or superseded only through a public
437 notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules and
438 regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be
439 made by cash transaction, electronic funds transfer, or any other mechanism as may be agreed to
440 in writing by the Contractor and the Contracting Officer. The Rates, Charges and Tiered Pricing
441 Component applicable to the Contractor upon execution of this Contract are set forth in Exhibit
442 "B," as may be revised annually.

443 (1) The Contractor shall pay the United States as provided for in this
444 Article of this Contract for all Delivered Water at Rates, Charges, and Tiered Pricing Component
445 in accordance with policies for M&I Water. The Contractor's Rates shall be established to
446 recover its estimated reimbursable costs included in the operation & maintenance component of
447 the Rate and amounts established to recover deficits and other charges, if any, including
448 construction costs as identified in the following subdivisions.

449 (2) In accordance with the WIIN Act, the Contractor's allocable share
450 of Project construction costs will be repaid pursuant to the provisions of this Contract.

451 (A) The amount due and payable to the United States, pursuant
452 to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been
453 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth

454 as a lump sum payment as set forth in Exhibit C. The Repayment Obligation is due in lump sum
455 within 60 days of the Effective Date of this Contract as provided by the WIIN Act.
456 Notwithstanding any Additional Capital Obligation that may later be established, receipt of the
457 Contractor's payment of the Repayment Obligation to the United States shall fully and
458 permanently satisfy the Existing Capital Obligation.

459 (B) Additional Capital Obligations that are not reflected in the
460 schedules referenced in Exhibit C and are properly assignable to the Contractor shall be repaid as
461 prescribed by the WIIN Act without interest except as required by law. Consistent with Federal
462 Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital
463 Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the
464 Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of
465 the Additional Capital Obligation assigned to each Project Contractor by the Secretary shall not
466 be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B),
467 however, such increases or decreases will be considered under subdivision (b) of this Article. A
468 separate agreement shall be established by the Contractor and the Contracting Officer to
469 accomplish repayment of the Additional Capital Obligation assigned to the Contractor within the
470 timeframe prescribed by the WIIN Act, subject to the following:

471 (1) If the collective Additional Capital Obligation
472 properly assignable to the contractors exercising conversion under Section 4011 of the WIIN Act
473 is less than five million dollars (\$5,000,000), then the portion of such costs properly assignable
474 to the Contractor shall be repaid not more than five (5) years after the Contracting Officer
475 notifies the Contractor of the Additional Capital Obligation; *Provided*, That the reference to the
476 amount of five million dollars (\$5,000,000) shall not be a precedent in any other context.

477 (2) If the collective Additional Capital Obligation
478 properly assignable to the contractors exercising conversion under Section 4011 of the WIIN Act
479 is equal to or greater than five million dollars (\$5,000,000), then the portion of such costs
480 properly assignable to the Contractor shall be repaid as provided by applicable Federal
481 Reclamation law and Project ratesetting policy; *Provided*, That the reference to the amount of
482 five million dollars (\$5,000,000) shall not be a precedent in any other context.

483 (b) In the event that the final cost allocation referenced in Section 4011(b) of
484 the WIIN Act determines that the costs properly assignable to the Contractor are greater than
485 what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining
486 allocated costs. The term of such additional repayment contract shall be not less than one (1)
487 year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate
488 of repayment of such amount may be developed by the Contractor and Contracting Officer. In
489 the event that the final cost allocation indicates that the costs properly assignable to the
490 Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such
491 overpayment as an offset against any outstanding or future obligations of the Contractor, with the
492 exception of Restoration Fund charges pursuant to Section 3407(d) of Public Law 102-575.

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

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

500 the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during
501 the period October 1 of the current Calendar Year, through September 30, of the following
502 Calendar Year, and such notification shall revise Exhibit "B".

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

510 (d) At the time the Contractor submits the initial schedule for the delivery of
511 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
512 Contractor shall make an advance payment to the United States equal to the total amount payable
513 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
514 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
515 Year. Before the end of the first month and before the end of each calendar month thereafter, the
516 Contractor shall make an advance payment to the United States, at the Rate(s) set under
517 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
518 during the second month immediately following. Adjustments between advance payments for
519 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of
520 the following month; *Provided*, That any revised schedule submitted by the Contractor pursuant
521 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
522 Contract during any month shall be accompanied with appropriate advance payment, at the Rates

523 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
524 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
525 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
526 additional Project Water shall be delivered to the Contractor unless and until an advance
527 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
528 between the advance payments for the Water Scheduled and payments for the quantities of Water
529 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
530 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried
531 over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last
532 day of February.

533 (e) The Contractor shall also make a payment in addition to the Rate(s) in
534 subdivision (d) of this Article to the United States for Water Delivered, at the Charges and the
535 appropriate Tiered Pricing Component then in effect, before the end of the month following the
536 month of delivery. The payments shall be consistent with the quantities of M&I Water Delivered
537 as shown in the water delivery report for the subject month prepared by the Operating Non-
538 Federal Entity or, if there is no Operating Non-Federal Entity, by the Contracting Officer. The
539 water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered
540 Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of
541 Charges shall be made through the adjustment of payments due to the United States for Charges
542 for the next month. Any amount to be paid for past due payment of Charges and the Tiered
543 Pricing Component shall be computed pursuant to Article 19 of this Contract.

544 (f) The Contractor shall pay for any Water Delivered under subdivision (a),
545 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to

546 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting
547 policies; Provided, That the Rate for Water Delivered under subdivision (f) of Article 3 of this
548 Contract shall be no more than the otherwise applicable Rate for M&I Water under subdivision
549 (a) of this Article.

550 (g) Payments to be made by the Contractor to the United States under this
551 Contract may be paid from any revenues available to the Contractor.

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

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

564 (j) The parties acknowledge and agree that the efficient administration of this
565 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
566 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component,
567 and/or for making and allocating payments, other than those set forth in this Article may be in
568 the mutual best interest of the parties, it is expressly agreed that the parties may enter into

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

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

581 (2) Omitted.

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

587 (1) Rates under the respective ratesetting policies will be established to
588 recover only reimbursable O&M (including any deficits) and capital costs of the Project, as those
589 terms are used in the then-current Project ratesetting policies, and interest, where appropriate,
590 except in instances where a minimum Rate is applicable in accordance with the relevant Project
591 ratesetting policy. Changes of significance in practices which implement the Contracting

592 Officer's ratesetting policies will not be implemented until the Contracting Officer has provided
593 the Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

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

599 (n) Omitted.

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

615 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

616 8. Omitted.

617 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

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

638 require prior written approval by the Contracting Officer. Such environmental documentation
639 and the Contracting Officer's compliance determination shall be reviewed every five years and
640 updated, as necessary, prior to the expiration of the then-existing five-year period. All
641 subsequent environmental documentation shall include an alternative to evaluate not less than the
642 quantity of Project Water historically transferred within the same geographical area.

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

653 APPLICATION OF PAYMENTS AND ADJUSTMENTS

654 10. (a) The amount of any overpayment by the Contractor of the Contractor's
655 O&M, capital, and deficit (if any) obligations for the Year shall be applied first to any current
656 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
657 more than \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount
658 of such overpayment, at the option of the Contractor, may be credited against amounts to become
659 due to the United States by the Contractor. With respect to overpayment, such refund or
660 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to

661 have the right to the use of any of the Project Water supply provided for herein. All credits and
662 refunds of overpayments shall be made within 30 days of the Contracting Officer obtaining
663 direction as to how to credit or refund such overpayment in response to the notice to the
664 Contractor that it has finalized the accounts for the Year in which the overpayment was made.

665 (b) All advances for miscellaneous costs incurred for work requested by the
666 Contractor pursuant to Article 24 of this Contract shall be adjusted to reflect the actual costs
667 when the work has been completed. If the advances exceed the actual costs incurred, the
668 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
669 advances, the Contractor will be billed for the additional costs pursuant to Article 24.

670 TEMPORARY REDUCTIONS--RETURN FLOWS

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

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

684 and if requested by the Contractor, the United States will, if possible, deliver the quantity of
685 Project Water which would have been delivered hereunder in the absence of such discontinuance
686 or reduction.

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

693 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

699 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting
700 or other similar operational errors affecting the Project; drought and other physical or natural
701 causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer
702 to meet current and future legal obligations then, except as provided in subdivision (a) of Article
703 17 of this Contract, no liability shall accrue against the United States or any of its officers,
704 agents, or employees for any damage, direct or indirect, arising therefrom.

705 (c) Omitted.

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

709 (e) By entering into this Contract, the Contractor does not waive any legal
710 rights or remedies it may have to file or participate in any administrative or judicial proceeding
711 contesting (i) the sufficiency of the manner in which any Project M&I Water Shortage Policy

712 adopted after the effective date of this Contract was promulgated; (ii) the substance of such a
713 policy; or (iii) the applicability of such a policy. By agreeing to the foregoing, the Contracting
714 Officer does not waive any legal defenses or remedies that it may then have to assert in such a
715 proceeding.

716 UNAVOIDABLE GROUNDWATER PERCOLATION

717 13. Omitted.

718 RULES, REGULATIONS AND DETERMINATIONS

719 14. (a) The parties agree that the delivery of Project Water or the use of Federal
720 facilities pursuant to this Contract is subject to Federal Reclamation law, as amended and
721 supplemented, and the rules and regulations promulgated by the Secretary of the Interior under
722 Federal Reclamation law.

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

728 PROTECTION OF WATER AND AIR QUALITY

729 15. (a) The United States will care for, operate and maintain reserved works in a
730 manner that preserves the quality of the water at the highest level possible as determined by the
731 Contracting Officer. The United States does not warrant the quality of the water delivered to the
732 Contractor and is under no obligation to furnish or construct water treatment facilities to
733 maintain or improve the quality of water delivered to the Contractor.

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

741 WATER ACQUIRED BY THE CONTRACTOR
742 OTHER THAN FROM THE UNITED STATES

743 16. (a) Omitted.

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

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

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

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

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

770 (5) After Project purposes are met, as determined by the Contracting
771 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity
772 of the facilities declared to be available by the Contracting Officer for conveyance and
773 transportation of non-Project water prior to any such remaining capacity being made available to
774 non-Project Contractors.

775 OPINIONS AND DETERMINATIONS

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

786 COORDINATION AND COOPERATION

787 18. (a) In order to further their mutual goals and objectives, the Contracting
788 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
789 with other affected Project Contractors, in order to improve the operation and management of the

790 Project. The communication, coordination, and cooperation regarding operations and
791 management shall include, but not be limited to, any action which will or may materially affect
792 the quantity or quality of Project Water supply, the allocation of Project Water supply, and
793 Project financial matters including, but not limited to, budget issues. The communication,
794 coordination, and cooperation provided for hereunder shall extend to all provisions of this
795 Contract. Each party shall retain exclusive decision making authority for all actions, opinion,
796 and determinations to be made by the respective party.

797 (b) Within 120 days following the effective date of the Existing Contract, the
798 Contractor, other affected Project Contractors, and the Contracting Officer should arrange to
799 meet with interested Project Contractors to develop a mutually agreeable, written Project-wide
800 process, which may be amended as necessary separate and apart from this Contract. The goal of
801 this process should be to provide, to the extent practicable, the means of mutual communication
802 and interaction regarding significant decisions concerning Project O&M on a real-time basis.

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

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

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

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

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

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

820 (d) Without limiting the contractual obligations of the Contracting Officer
821 under the other Articles of this Contract, nothing in this Article shall be construed to limit or
822 constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the
823 Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to
824 protect health, safety, or the physical integrity of structures or facilities.

825 CHARGES FOR DELINQUENT PAYMENTS

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

836 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
837 in the Federal Register by the Department of the Treasury for application to overdue payments,
838 or the interest rate of 0.5 percent per month prescribed by Section 6 of the Reclamation Project
839 Act of 1939 (Public Law 76-260). The interest rate charged will be determined as of the due
840 date and remain fixed for the duration of the delinquent period.

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

844 EQUAL EMPLOYMENT OPPORTUNITY

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

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

856 (b) The Contractor will, in all solicitations or advertisements for employees
857 placed by or on behalf of the Contractor, state that all qualified applicants will receive
858 consideration for employment without discrimination because of race, color, religion, sex, sexual
859 orientation, gender identity, or national origin.

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

870 (d) The Contractor will send to each labor union or representative of workers
871 with which it has a collective bargaining agreement or other contract or understanding, a notice,
872 to be provided by the Contracting Officer, advising the labor union or workers' representative of
873 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,
874 1965, and shall post copies of the notice in conspicuous places available to employees and
875 applicants for employment.

876 (e) The Contractor will comply with all provisions of Executive Order No.
877 11246 of Sept. 24, 1965, as amended, and of the rules, regulations, and relevant orders of the
878 Secretary of Labor.

879 (f) The Contractor will furnish all information and reports required by
880 amended Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and
881 orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records,

882 and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation
883 to ascertain compliance with such rules, regulations, and orders.

884 (g) In the event of the Contractor's noncompliance with the nondiscrimination
885 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
886 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared
887 ineligible for further Government contracts in accordance with procedures authorized in
888 amended Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be
889 imposed and remedies invoked as provided in Executive Order No. 11246 of September 24,
890 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

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

901 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

915 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

916 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
917 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as
918 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135,

919 Title III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub.
920 L. 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the
921 applicable implementing regulations and any guidelines imposed by the U.S. Department of the
922 Interior and/or Bureau of Reclamation.

923 (b) These statutes prohibit any person in the United States from being
924 excluded from participation in, being denied the benefits of, or being otherwise subjected to
925 discrimination under any program or activity receiving financial assistance from the Bureau of
926 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this
927 Contract, the Contractor agrees to immediately take any measures necessary to implement this
928 obligation, including permitting officials of the United States to inspect premises, programs, and
929 documents.

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

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

940 PRIVACY ACT COMPLIANCE

941 23. Omitted.

942 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

951

WATER CONSERVATION

952 25. (a) Prior to the delivery of water provided from or conveyed through federally
953 constructed or federally financed facilities pursuant to this Contract, the Contractor shall develop
954 a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of
955 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

956 Additionally, an effective water conservation and efficiency program shall be based on the
957 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
958 the conservation and efficiency criteria for evaluating water conservation plans established under
959 Federal law. The water conservation and efficiency program shall contain definite water
960 conservation objectives, appropriate economically feasible water conservation measures, and
961 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
962 Contract shall be contingent upon the Contractor's continued implementation of such water
963 conservation program. In the event the Contractor's water conservation plan or any revised water
964 conservation plan completed pursuant to subdivision (d) of Article 25 of this Contract have not
965 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
966 the Contracting Officer determines are beyond the control of the Contractor, water deliveries
967 shall be made under this Contract so long as the Contractor diligently works with the Contracting
968 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
969 immediately begins implementing its water conservation and efficiency program in accordance
970 with the time schedules therein.

971 (b) Should the amount of M&I Water delivered pursuant to subdivision (a)
972 of Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall
973 implement the Best Management Practices identified by the time frames issued by the
974 California-Great Basin Region's then-existing conservation and efficiency criteria for such M&I

975 Water unless any such practice is determined by the Contracting Officer to be inappropriate for
976 the Contractor.

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

980 (d) Prior to the expiration of the currently approved water conservation plan,
981 and thereafter at five-year intervals, the Contractor shall revise its water conservation plan to
982 reflect the then-existing conservation and efficiency criteria for evaluating water conservation
983 plans established under Federal law and submit such revised water conservation plan to the
984 Contracting Officer for review and evaluation. The Contracting Officer will then determine if
985 the water conservation plan meets the Bureau of Reclamation's then-existing conservation and
986 efficiency criteria for evaluating water conservation plans established under Federal law.

987 (e) If the Contractor is engaged in direct ground-water recharge, such activity
988 shall be described in the Contractor's water conservation plan.

989 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

997 OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

998 27. Omitted.

999 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1000 28. The expenditure or advance of any money or the performance of any obligation of
1001 the United States under this Contract shall be contingent upon appropriation or allotment of
1002 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1003 obligations under this Contract. No liability shall accrue to the United States in case funds are
1004 not appropriated or allotted.

1005 BOOKS, RECORDS, AND REPORTS

1006 29. (a) The Contractor shall establish and maintain accounts and other books and
1007 records pertaining to administration of the terms and conditions of this Contract, including the
1008 Contractor's financial transactions; water supply data; project operation, maintenance, and
1009 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop
1010 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting
1011 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on
1012 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws
1013 and regulations, each party to this Contract shall have the right during office hours to examine
1014 and make copies of the other party's books and records relating to matters covered by this
1015 Contract.

1016 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1017 books, records, or other information shall be requested from the Contractor by the Contracting
1018 Officer unless such books, records, or information are reasonably related to the administration or
1019 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1020 time within which to provide the requested books, records, or information.

1021 (c) Omitted

1022 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1023 30. (a) The provisions of this Contract shall apply to and bind the successors and
1024 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1025 therein shall be valid until approved in writing by the other party.

1026 (b) The assignment of any right or interest in this Contract by either party
1027 shall not interfere with the rights or obligations of the other party to this Contract absent the
1028 written concurrence of said other party.

1029 (c) The Contracting Officer shall not unreasonably condition or withhold
1030 approval of any proposed assignment.

1031 SEVERABILITY

1032 31. In the event that a person or entity who is neither (i) a party to a Project contract,
1033 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor
1034 (iii) an association or other form of organization whose primary function is to represent parties to
1035 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1036 enforceability of a provision included in this Contract and said person, entity, association, or
1037 organization obtains a final court decision holding that such provision is legally invalid or
1038 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1039 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
1040 final court decision identify by mutual agreement the provisions in this Contract which must be
1041 revised and (ii) within three months thereafter promptly agree on the appropriate revision(s).

1042 The time periods specified above may be extended by mutual agreement of the parties. Pending
1043 the completion of the actions designated above, to the extent it can do so without violating any
1044 applicable provisions of law, the United States shall continue to make the quantities of Project
1045 Water specified in this Contract available to the Contractor pursuant to the provisions of this
1046 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1047 RESOLUTION OF DISPUTES

1048 32. Should any dispute arise concerning any provisions of this Contract, or the
1049 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1050 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1051 Officer referring any matter to Department of Justice, the party shall provide to the other party

1052 30-days' written notice of the intent to take such action; *Provided*, That such notice shall not be
1053 required where a delay in commencing an action would prejudice the interests of the party that
1054 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer
1055 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,
1056 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
1057 United States may have.

1058 OFFICIALS NOT TO BENEFIT

1059 33. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1060 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1061 manner as other water users or landowners.

1062 CHANGES IN CONTRACTOR'S SERVICE AREA OR ORGANIZATION

1063 34. (a) While this Contract is in effect, no change may be made in the
1064 Contractor's Service Area or organization, by inclusion or exclusion of lands or by any other
1065 changes which may affect the respective rights, obligations, privileges, and duties of either the
1066 United States or the Contractor under this Contract, including, but not limited to, dissolution,
1067 consolidation, or merger, except upon the Contracting Officer's written consent.

1068 (b) Within 30 days of receipt of a request for such a change, the Contracting
1069 Officer will notify the Contractor of any additional information required by the Contracting
1070 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1071 schedule for timely completion of the process. Such process will analyze whether the proposed
1072 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1073 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1074 to pay for any Federally-constructed facilities for which the Contractor is responsible; and
1075 (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition,
1076 the Contracting Officer shall comply with NEPA and ESA. The Contractor will be responsible
1077 for all costs incurred by the Contracting Officer in this process, and such costs will be paid in
1078 accordance with Article 24 of this Contract.

1079 FEDERAL LAWS

1080 35. By entering into this Contract, the Contractor does not waive its rights to contest
1081 the validity or application in connection with the performance of the terms and conditions of this
1082 Contract of any Federal law or regulation; *Provided*, That the Contractor agrees to comply with
1083 the terms and conditions of this Contract unless and until relief from application of such Federal
1084 law or regulation to the implementing provision of the Contract is granted by a court of
1085 competent jurisdiction.

1086 NOTICES

1087 36. Any notice, demand, or request authorized or required by this Contract shall be
1088 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1089 delivered to the Area Manager, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom,
1090 California 95630-1799, and on behalf of the United States, when mailed, postage prepaid, or
1091 delivered to the Board of Directors of the El Dorado Irrigation District, 2890 Mosquito Road,
1092 Placerville, California 95667. The designation of the addressee or the address may be changed
1093 by notice given in the same manner as provided in this Article for other notices.

1094 CONFIRMATION OF CONTRACT

1095 37. Promptly after the execution of this contract, the Contractor will provide evidence
1096 to the Contracting Officer that, pursuant to the laws of the State of California, the Contractor is a
1097 legally constituted entity and the contract is lawful, valid, and binding on the Contractor. This
1098 contract will not be binding on the United States until the Contractor provides evidence to the
1099 Contracting Officer's satisfaction. In addition to other forms of evidence to meet the
1100 requirements of this Article, the Contractor may provide or the Contracting Officer may require a
1101 certified copy of a final decree of a court of competent jurisdiction in the State of California,
1102 confirming the proceedings on the part of the Contractor for the authorization of the execution of
1103 this contract.

1104 CERTIFICATION OF NONSEGREGATED FACILITIES

1105 38. Omitted

1106 MEDIUM FOR TRANSMITTING PAYMENTS

1107 39. (a) All payments from the Contractor to the United States under this Contract
1108 shall be by the medium requested by the United States on or before the date payment is due. The
1109 required method of payment may include checks, wire transfers, or other types of payment
1110 specified by the United States.

1111 (b) The Contractor shall furnish the Contracting Officer with the Contractor's
1112 taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for
1113 collecting and reporting any delinquent amounts arising out of the Contractor's relationship with
1114 the United States.

1115 CONTRACT DRAFTING CONSIDERATIONS

1116 40. This amended Contract has been, negotiated and reviewed by the parties hereto,
1117 each of whom is sophisticated in the matters to which this amended Contract pertains. The
1118 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by
1119 the parties, and no one party shall be considered to have drafted the stated articles. Single-
1120 spaced articles are standard articles pursuant to Reclamation policy.

1121 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of
1122 the day and year first above written.

1123 UNITED STATES OF AMERICA

1124 By: _____
1125 Regional Director
1126 Interior Region 10: California-Great Basin
1127 Region Bureau of Reclamation

1128 EL DORADO IRRIGATION DISTRICT

1129 By: _____
1130 General Manager
1131 El Dorado Irrigation District

1132 Attest:

1133 By: _____
1134 Secretary
1135 El Dorado Irrigation District