

CCAO 11-15-2019
CCAO 11-20-2019
CCAO 12-03-2019
CCAO 12-11-2019
CCAO 12-16-2019

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

CONTRACT BETWEEN THE UNITED STATES
AND
PLACER COUNTY WATER AGENCY
PROVIDING FOR PROJECT WATER SERVICE
AND FACILITIES REPAYMENT

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- Exhibit A - Map of Contractor's Service Area
- Exhibit B - Rates and Charges
- Exhibit C – Existing Capital Obligation

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

5 CONTRACT BETWEEN THE UNITED STATES
6 AND
7 PLACER COUNTY WATER AGENCY
8 PROVIDING FOR PROJECT WATER SERVICE
9 AND FACILITIES REPAYMENT

10 THIS CONTRACT, made this ____ day of _____, 20____, in
11 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
12 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844),
13 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
14 June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050),
15 as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and the Water
16 Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130 Stat. 1628), Section 4011
17 (a-d) and (f) (“**WIIN Act**”), all collectively hereinafter referred to as Federal Reclamation law,
18 between THE UNITED STATES OF AMERICA, hereinafter referred to as the United States,
19 and PLACER COUNTY WATER AGENCY, hereinafter referred to as the Contractor, a public
20 agency of the State of California, duly organized, existing, and acting pursuant to the laws
21 thereof;

22 WITNESSETH, That:

23 EXPLANATORY RECITALS

24 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
25 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for
26 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection

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

30 [2nd] WHEREAS, the United States constructed Folsom Dam and Reservoir,
31 hereinafter collectively referred to as the American River Division, which will be used in part for
32 the furnishing of water to the Contractor pursuant to the terms of this Contract; and

33 [3rd] WHEREAS, the rights to Project Water were acquired by the United States
34 pursuant to California law for operation of the Project; and

35 [4th] WHEREAS, the Contractor and the United States entered into Contract
36 No. 14-06-200-5082A, dated September 18, 1970, as amended July 8, 1992, which established
37 terms for the delivery to the Contractor of Project Water from the Auburn Reservoir or other
38 mutually agreeable locations and also recognized the Contractor's right to certain flows of the
39 American River authorized by permits issued by the California State Water Right Control Board
40 which is now called the State Water Resources Control Board (SWRCB); and

41 [4.1] WHEREAS, Contract No. 14-06-200-5082A, as amended, was superseded by
42 Amendatory Contract No. 14-06-200-5082A on February 26, 2002, to, among other things, re-
43 designate points of diversion and eliminate the minimum payment provisions currently included
44 in the contract and reduce the annual amount of Project Water to be made available from
45 117,000 acre-feet to 35,000 acre-feet; and

46 [4.2] WHEREAS, Amendatory Contract No. 14-06-200-5082A was further amended
47 on August 27, 2002, to provide for a potential point of diversion on the Sacramento River, and to
48 provide for a potential increase in the annual quantity provided under this contract to an amount
49 in excess of 35,000 acre-feet, if and when a point of diversion for Project Water is established on
50 the Sacramento River and if the proposed Auburn Dam is fully Completed, and the United States
51 obtains the necessary water rights for the Auburn Dam and Reservoir, and

52

53 [4.3] WHEREAS, the United States and the Contractor entered into interim renewal
54 contract 14-06-200-5082A-IR1 and successive renewals of 14-06-200-5082A-IR1, hereinafter
55 referred to as the "Existing Contract", which established terms for the delivery of Project Water
56 to the Contractor from the American River Division, in effect on the date the WIIN Act was
57 enacted, and as may have been extended; and

58 [5th] WHEREAS, the SWRCB by Order WR 2008-0045 revoked Reclamation's right
59 to appropriate water in connection with the Auburn-Folsom South Unit (Auburn Dam and
60 Reservoir) of the Project; and

61 [6th] WHEREAS, on December 16, 2016, the 114th Congress of the United States of
62 America enacted the WIIN Act; and

63 [7th] WHEREAS, WIIN Act, Section 4011(a)(1) provides that "upon request of the
64 contractor, the Secretary of the Interior shall convert any water service contract in effect on the
65 date of enactment of this subtitle and between the United States and a water users' association
66 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under
67 mutually agreeable terms and conditions."; and

68 [8th] WHEREAS, WIIN Act, Section 4011(a)(1) further provides that "the manner of
69 conversion under this paragraph shall be as follows: (A) Water service contracts that were
70 entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under
71 this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat.
72 1195)"; and "(B) Water service contracts that were entered under subsection (c)(2) of section 9
73 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be
74 converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195)."; and

75 [9th] WHEREAS, WIIN Act, Section 4011(a)(4)(C) further provides all contracts
76 entered into pursuant to WIIN Act, Section 4011(a)(1), (2), and (3) shall "not modify other water
77 service, repayment, exchange and transfer contractual rights between the water users' association
78 [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the

79 water users' association [Contractor] and their landowners as provided under State law.”; and

80 [10th] WHEREAS, WIIN Act, Section 4011(d)(3) and (4) provides that
81 “implementation of the provisions of this subtitle shall not alter...(3) the priority of a water
82 service or repayment contractor to receive water; or (4) except as expressly provided in this
83 section, any obligations under the reclamation law, including the continuation of Restoration
84 Fund charges pursuant to section 3407(d) (Public Law 102-575), of the water service and
85 repayment contractors making prepayments pursuant to this section.”; and

86 [11th] WHEREAS, upon the request of the Contractor, the WIIN Act directs the
87 Secretary to convert municipal and industrial (M&I) water service contracts into repayment
88 contracts, amend existing repayment contracts, and allow contractors to prepay their construction
89 cost obligations pursuant to applicable Federal Reclamation law; and

90 [12th] WHEREAS, the Contracting Officer and the Contractor agree to amend the
91 Existing Contract with the execution of this Contract; and

92 [13th] WHEREAS, consistent with the WIIN Act, in entering into this Contract, the
93 parties do not intend to change or delete any terms or provisions of the Existing Contract except
94 as expressly set forth in this Contract; and

95 [14th] WHEREAS, the Contracting Officer and the Contractor agree that this Contract
96 complies with WIIN Act, Section 4011.

97 [15th] Omitted; and

98 [16th] WHEREAS, the United States has determined that the Contractor has fulfilled all
99 of its obligations under the Existing Contract; and

100 [17th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
101 Contracting Officer that the Contractor has projected future demand for water use such that the
102 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the
103 quantity of Project Water to be made available to it pursuant to this Contract; and

104 [18th] WHEREAS, water obtained from the Project has been relied upon by urban and

105 agricultural areas within California for more than 50 years, and is considered by the Contractor
106 as an essential portion of its water supply; and

107 [19th] WHEREAS, the economies of regions within the Project, including the
108 Contractor's, depend upon the continued availability of water, including water service from the
109 Project; and

110 [20th] WHEREAS, in the California Bay-Delta Authority (CALFED) Programmatic
111 Record of Decision, dated August 28, 2000, the United States and the State of California adopted
112 a general target of continuously improving Delta water quality for all uses. The CALFED
113 Agencies' target for providing safe, reliable, and affordable drinking water in a cost-effective
114 way, is to achieve either: "(a) average concentrations at Clifton Court Forebay and other
115 southern and central Delta drinking water intakes of 50 ug/L bromide and 3.0 mg/L total organic
116 carbon, or (b) an equivalent level of public health protection using a cost-effective combination
117 of alternative source waters, source control and treatment technologies;" and

118 [21st] WHEREAS, the Secretary intends through coordination, cooperation, and
119 partnerships to pursue measures to improve water supply, water quality, and reliability of the
120 Project for all Project purposes; and

121 [22nd] WHEREAS, the Contractor and the water users in its Service Area have improved
122 and will continue to improve water use efficiency through water conservation, water reclamation,
123 and other Best Management Practices; however, implementing these measures have reduced and
124 continue to reduce the ability of the Contractor and the water users in its Service Area to
125 withstand a Condition of Shortage; and

126 [23rd] WHEREAS, the mutual goals of the United States and the Contractor include: to
127 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
128 repayment of the Project as required by law; to guard reasonably against Project Water
129 shortages; to achieve a reasonable balance among competing demands for use of Project Water;
130 and to comply with all applicable environmental statutes, all consistent with the legal obligations

131 of the United States relative to the Project; and

132 [24th] WHEREAS, the parties intend by this Contract to develop a more cooperative
133 relationship in order to achieve their mutual goals; and

134 [24.1] WHEREAS, the Contractor is a signatory to the Water Forum Agreement, dated
135 April 2000, which has the co-equal objectives to (1) provide a reliable and safe water supply for
136 the Sacramento region's economic health and planned development through the year 2030, and
137 (2) preserve the fishery, wildlife, recreational and aesthetic values of the lower American River;
138 and

139 [24.2] WHEREAS, the Contracting Officer is in support of the co-equal objectives of the
140 Water Forum Agreement and intends to work cooperatively with the Contractor to investigate
141 actions that they could take to implement the objectives of the Water Forum Agreement, which,
142 if agreed to, would be the subject of a separate agreement between them; and

143 [25th] WHEREAS, the contract between the United States and the Contractor dated
144 February 20, 1963, as may be amended from time to time, relating to the operation of the
145 Contractor's Middle Fork American River Project Reservoirs is still in full force and effect and
146 is not affected by the terms and conditions of this Contract.

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

149 DEFINITIONS

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

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

154 (b) "Charges" shall mean the payments required by Federal Reclamation law
155 in addition to the Rates specified in this Contract as determined annually by the Contracting
156 Officer pursuant to this Contract;

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

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

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

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

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

172 (g.1) "Diversion Water" shall mean water to which the Contractor has acquired
173 rights under Permit Nos. 13855, 13856, 13857, and 13858 issued by the California State Water
174 Rights Board, now referred to as the State Water Resources Control Board;

175 (h-i) Omitted;

176 (j) "Full Cost Rate" shall mean an annual rate, as determined by the
177 Contracting Officer that shall amortize the expenditures for construction properly allocable to the
178 Project Irrigation or M&I functions, as appropriate, of facilities in service including all O&M
179 deficits funded, less payments, over such periods as may be required under Federal Reclamation
180 law; or applicable contract provisions. Interest will accrue on both the construction expenditures
181 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the

182 date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated
183 in accordance with subsections 202(3)(B) and (3)(C) of the Reclamation Reform Act of
184 October 12, 1982 (96 Stat. 1263), as amended, hereinafter referred to as RRA. The Full-Cost
185 Rate includes actual operation, maintenance, and replacement costs consistent with Section 426.2
186 of the Rules and Regulations for the RRA;

187 (k-1) Omitted;

188

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

192

193 (n) Omitted;

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

198 Water uses established before [effective date of Contract] and known to the Contracting Officer
199 and the Contractor are deemed to be authorized uses of M&I Water;

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

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

205 (r) Omitted;

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

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

211 (u) "Project Water" shall mean all water that is developed, diverted, stored, or

212 delivered by the Secretary in accordance with the statutes authorizing the Project and in
213 accordance with the terms and conditions of water rights acquired pursuant to California law;

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

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

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

223 (y) Omitted

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

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

230 (bb) "Water Scheduled" shall mean Water Made Available to the Contractor
231 for which times and quantities for delivery have been established by the Contractor and
232 Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

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

235 (dd) "Additional Capital Obligation" shall mean construction costs or other
236 capitalized costs incurred after [effective date of Amendment] or not reflected in the Existing
237 Capital Obligation as defined herein and in accordance with WIIN Act, Section 4011, subsection

238 (a)(3)(B).

239 (ee) “Existing Capital Obligation” shall mean the remaining amount of
240 construction costs or other capitalized costs allocable to the Contractor as described in Section
241 4011, subsection (a)(3)(A) of the WIIN Act, and as identified in the Central Valley Project
242 Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, dated
243 Month/Day/Year [**specify ratebook year for all contractors.**], as adjusted to reflect payments
244 not reflected in such schedule. The Contracting Officer has computed the Existing Capital
245 Obligation and such amount is set forth in Exhibit C, which is incorporated herein by reference.

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

248 TERM OF CONTRACT

249 2. (a) This Contract shall be effective [effective date] and shall continue so long
250 as the Contractor pays applicable Rates and Charges under this Contract, consistent with Section
251 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law;

252 (1) Provided, That the Contracting Officer shall not seek to terminate
253 this Contract for failure to fully or timely pay applicable Charges by the Contractor, unless the
254 Contracting Officer has first provided at least sixty (60) calendar days written notice to the
255 Contractor of such failure to pay and Contractor has failed to cure such failure to pay, or to
256 diligently commence and maintain full curative payments satisfactory to the Contracting Officer
257 within the sixty (60) calendar days’ notice period;

258 (2) Provided further, That the Contracting Officer shall not seek to
259 suspend making water available or declaring Water Made Available pursuant to this Contract for
260 non-compliance by the Contractor with the terms of this Contract or Federal law, unless the
261 Contracting Officer has first provided at least thirty (30) calendar days written notice to the
262 Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence
263 curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully

264 cured within the thirty (30) calendar days' notice period. If the Contracting Officer has
265 suspended making water available pursuant to this paragraph, upon cure of such noncompliance
266 satisfactory to the Contracting Officer, the Contracting Officer shall resume making water
267 available and declaring Water Made Available pursuant to this Contract;

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

270 (b) Upon complete payment of the Repayment Obligation by the Contractor,
271 and notwithstanding any Additional Capital Obligation that may later be established, the acreage
272 limitations, reporting, and the Full Cost pricing provisions of the Reclamation Reform Act of
273 1982 shall no longer be applicable to the Contractor pursuant to this Contract.

274 (c) Omitted

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

278 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

279 3. (a) During each Year, consistent with all applicable State water rights,
280 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of
281 this Contract, the Contracting Officer shall make available for delivery to the Contractor up to
282 35,000 acre-feet of Project Water for M&I purposes. Provided, however, during the two (2)
283 month period of January and February of 2012, the Contracting Officer shall make available for
284 delivery to the Contractor that portion of the 2011 allocation of Project Water unused by the
285 Contractor under the Existing Contract. Water Delivered to the Contractor in accordance with
286 this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of
287 this Contract.

288 (1) The Contracting Officer recognizes that the Contractor has a right
289 to Diversion Water from the American River in the amount of 120,000 acre-feet in any Year said

290 water is available. Said Diversion Water is in addition to the Project Water made available
291 pursuant to this Contract. The quantities of Diversion Water to which the Contractor is entitled
292 and which are not taken or otherwise disposed of by the Contractor during that Year shall
293 become the property of the United States.

294 (2) The quantity of Diversion Water specified in Article 3(a)(1) above,
295 is contingent upon the right of the Contractor to continue to take said quantity of water annually
296 pursuant to California law. In the event that under such law the Contractor's right to take
297 Diversion Water is less than the amount specified in Article 3(a)(1) above, the amount of
298 Diversion Water which the Contracting Officer will recognize under this Contract shall be
299 reduced accordingly.

300 (b) Because the capacity of the Project to deliver Project Water has been
301 constrained in recent years and may be constrained in the future due to many factors including
302 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
303 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this
304 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the
305 programmatic environmental impact statement required by Section 3409 of the CVPIA projected
306 that the Contract Total set forth in this Contract will not be available to the Contractor in many
307 years. During the most recent five years, the Recent Historic Average of water made available to
308 the Contractor was 32,000 acre feet. Nothing in subdivision (b) of this Article shall affect the
309 rights and obligations of the parties under any provision of this Contract.

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

312 (d) The Contractor shall make reasonable and beneficial use of all Project
313 water furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in
314 lieu), groundwater banking programs, surface water storage programs, and other similar
315 programs utilizing Project Water or other water furnished pursuant to this Contract conducted

316 within the Contractor's Service Area which are consistent with applicable State law and result in
317 use consistent with Federal Reclamation law will be allowed; Provided, That any direct recharge
318 program(s) is (are) described in the Contractor's water conservation plan submitted pursuant to
319 Article 25 of this Contract; Provided, further, That such water conservation plan demonstrates
320 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average,
321 the quantity of Delivered Water is demonstrated to be reasonable for such uses and in
322 compliance with Federal Reclamation law. Groundwater recharge programs, groundwater
323 banking programs, surface water storage programs, and other similar programs utilizing Project
324 Water or other water furnished pursuant to this Contract conducted outside the Contractor's
325 Service Area may be permitted upon written approval of the Contracting Officer, which approval
326 will be based upon environmental documentation, Project Water rights, and Project operational
327 concerns. The Contracting Officer will address such concerns in regulations, policies, or
328 guidelines.

329 (e) The Contractor shall comply with requirements applicable to the
330 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
331 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),
332 as amended, that are within the Contractor's legal authority to implement. Nothing herein shall
333 be construed to prevent the Contractor from challenging or seeking judicial relief in a court of
334 competent jurisdiction with respect to any biological opinion or other environmental
335 documentation referred to in this Article.

336 (f) Following the declaration of Water Made Available under Article 4 of this
337 Contract, the Contracting Officer will make a determination whether Project Water, or other
338 water available to the Project, can be made available to the Contractor in addition to the Contract
339 Total under Article 3 of this Contract during the Year without adversely impacting other Project
340 Contractors. At the request of the Contractor, the Contracting Officer will consult with the
341 Contractor prior to making such a determination. If the Contracting Officer determines that

342 Project Water, or other water available to the Project, can be made available to the Contractor,
343 the Contracting Officer will announce the availability of such water and shall so notify the
344 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor
345 and other Project Contractors capable of taking such water to determine the most equitable and
346 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such
347 water, the Contracting Officer shall make such water available to the Contractor in accordance
348 with applicable statutes, regulations, guidelines, and policies. Subject to existing long-term
349 contractual commitments, water rights and operational constraints, long-term Project Contractors
350 shall have a first right to acquire such water, including Project Water made available pursuant to
351 Section 215 of the RRA.

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

359 (h) The Contractor’s right pursuant to Federal Reclamation law and applicable
360 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract
361 shall not be disturbed, and this Contract shall continue so long as the Contractor pays applicable
362 Rates and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the Act of
363 August 4, 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding
364 sentence shall affect the Contracting Officer’s ability to impose shortages under Article 11 or
365 subdivision (b) of Article 12 of this Contract.

366 (i) Project Water furnished to the Contractor pursuant to this Contract may be
367 delivered for purposes other than those described in subdivisions (m) and (o) of Article 1 of this

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

370 (j) The Contracting Officer shall make reasonable efforts to protect the water
371 rights necessary for the Project and to provide the water available under this Contract. The
372 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
373 extent permitted by law, in administrative proceedings related to the Project Water rights;
374 Provided, That the Contracting Officer retains the right to object to the substance of the
375 Contractor's position in such a proceeding; Provided further, That in such proceedings the
376 Contracting Officer shall recognize the Contractor has a legal right under the terms of this
377 Contract to use Project Water.

378 (k) In recognition of the prior historical contractual relationship between the
379 Contractor and the United States, concerning the potential increase in water supply that could be
380 made available from the Project if the Auburn Dam and Reservoir were to be completed, by
381 entering into this Contract, the Contractor is not waiving any rights it may have, upon any
382 renewal of the Contract and any subsequent renewals thereof, to assert a right to such an increase
383 in water supply.
384

385 TIME FOR DELIVERY OF WATER

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

393 request of the Contractor. Concurrently with the declaration of the Water Made Available, the
394 Contracting Officer shall provide the Contractor with the updated Recent Historic Average.

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

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

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

410 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

411 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
412 Contract shall be delivered to the Contractor at Folsom Dam and any additional point or points of
413 delivery either on Project facilities or another location or locations mutually agreed to in writing
414 by the Contracting Officer and the Contractor, including a potential point of delivery on the
415 Sacramento River north of the American River. The parties acknowledge that the potential
416 Sacramento River point of delivery may be at a point that, as of the date of this Contract, is not
417 included as an authorized point of delivery under the water right permits of the Project. Project
418 Water will not be delivered to this point of delivery unless and until such point is added to the

419 water right permits of the Project. Upon request of the Contractor, the Contracting Officer shall
420 petition the California State Water Resources Control Board to include the necessary point of
421 delivery to the water rights for the Project, and the Contractor shall cooperate with and assist the
422 Contracting Officer in prosecuting such petition in a timely manner. The Contracting Officer
423 shall bear neither responsibility nor liability for existing and/or future-constructed non-Federal
424 diversion or delivery facilities or the use thereof.

425 (1) The parties hereby acknowledge execution of the Stipulated
426 Agreement dated September 8, 1998, recognizing the agreement by the United States, Bureau of
427 Reclamation, subject to certain conditions, to dismiss protests to the Contractor's petition to
428 expand the place of use under the Contractor's water right permits.

429 (b) Omitted.

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

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

441 (e) The Contracting Officer shall not be responsible for the control, carriage,
442 handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
443 Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor
444 shall indemnify the United States, its officers, employees, agents, and assigns on account of

445 damage or claim of damage of any nature whatsoever for which there is legal responsibility,
446 including property damage, personal injury, or death arising out of or connected with the control,
447 carriage, handling, use, disposal, or distribution of such Water Delivered beyond such delivery
448 points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting
449 Officer or any of its officers, employees, agents, or assigns with the intent of creating the
450 situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or
451 any of its officers, employees, agents, or assigns; (iii) negligence of the Contracting Officer or
452 any of its officers, employees, agents, or assigns; or (iv) damage or claims resulting from a
453 malfunction of facilities owned and/or operated by the United States.

454 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

455 6. (a) The Contractor shall ensure that, unless the Contractor has established a
456 measuring program satisfactory to the Contracting Officer, the Contractor shall ensure that all
457 surface water delivered for M&I purposes is measured at each M&I service connection. The
458 water measuring devices or water measuring methods of comparable effectiveness must be
459 acceptable to the Contracting Officer. The Contractor shall be responsible for installing,
460 operating, and maintaining and repairing all such measuring devices and implementing all such
461 water measuring methods at no cost to the United States. The Contractor shall use the
462 information obtained from such water measuring devices or water measuring methods to ensure
463 its proper management of the water, to bill water users for water delivered by the Contractor;
464 and, if applicable, to record water delivered for M&I purposes by customer class as defined in
465 the Contractor's water conservation plan provided for in Article 26 of this Contract. Nothing
466 herein contained, however, shall preclude the Contractor from establishing and collecting any
467 charges, assessments, or other revenues authorized by California law. The Contractor shall
468 include a summary of all its annual surface water deliveries in the annual report described in
469 subdivision (c) of Article 25.

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

471 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
472 report describing the measurement devices or water measuring methods being used or to be used
473 to implement subdivision (a) of this Article and identifying the M&I service connections or
474 alternative measurement programs approved by the Contracting Officer, at which such
475 measurement devices or water measuring methods are being used, and, if applicable, identifying
476 the locations at which such devices and/or methods are not yet being used including a time
477 schedule for implementation at such locations. The Contracting Officer shall advise the
478 Contractor in writing within 60 days as to the adequacy of, and necessary modifications, if any,
479 of the measuring devices or water measuring methods identified in the Contractor's report and if
480 the Contracting Officer does not respond in such time, they shall be deemed adequate. If the
481 Contracting Officer notifies the Contractor that the measuring devices or methods are
482 inadequate, the parties shall within 60 days following the Contracting Officer's response,
483 negotiate in good faith the earliest practicable date by which the Contractor shall modify said
484 measuring devices and/or measuring methods as required by the Contracting Officer to ensure
485 compliance with subdivision (a) of this Article.

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

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

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

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

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7. (a) Notwithstanding the Contractor’s full prepayment of the Repayment Obligation pursuant to Section 4011, subsection (a)(3)(A) of the WIIN Act, as set forth in Exhibit C, and any payments required pursuant to Section 4011, subsection (b) of the WIIN Act, to reflect the adjustment for the final cost allocation as described in this Article, subsection (b), the Contractor’s Project construction and other cost obligations shall be determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary’s then-existing ratesetting policy for M&I Water, consistent with the WIIN Act; and such ratesetting policies shall be amended, modified, or superseded only through a public notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules and regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be made by cash transaction, electronic funds transfers, or any other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The Rates and Charges applicable to the Contractor upon execution of this Contract are set forth in Exhibit “B,” as may be revised annually.

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

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

(A) The amount due and payable to the United States, pursuant to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has

521 been computed by the Contracting Officer in a manner consistent with the WIIN Act and is set
522 forth as a lump sum payment as set forth in Exhibit C. The Repayment Obligation is due in lump
523 sum within 60 days of the effective date of this Contract as provided by the WIIN Act.
524 Notwithstanding any Additional Capital Obligation that may later be established, receipt of the
525 Contractor's payment of the Repayment Obligation to the United States shall fully and
526 permanently satisfy the Existing Capital Obligation.

527 (B) Additional Capital Obligations that are not reflected
528 in the schedules referenced in Exhibit C and are properly assignable to the Contractor shall be
529 repaid as prescribed by the WIIN Act without interest except as required by law. Consistent with
530 Federal Reclamation law, interest shall continue to accrue on the M&I portion of the Additional
531 Capital Obligation assigned to the Contractor until such costs are paid. Increases or decreases in
532 the Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment
533 of the Additional Capital Obligation assigned to each Project Contractor by the Secretary shall
534 not be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B),
535 however, such increases or decreases will be considered under subdivision (b) of this Article. A
536 separate agreement shall be established by the Contractor and the Contracting Officer to
537 accomplish repayment of the Additional Capital Obligation assigned to the Contractor within the
538 timeframe prescribed by the WIIN Act, subject to the following:

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

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

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

562 (c) The Contracting Officer shall notify the Contractor of the Rates and
563 Charges as follows:

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

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

579 (d) At the time the Contractor submits the initial schedule for the delivery of
580 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
581 Contractor shall make an advance payment to the United States equal to the total amount payable
582 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
583 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
584 Year. Before the end of the first month and before the end of each calendar month thereafter, the
585 Contractor shall make an advance payment to the United States, at the Rate(s) set under
586 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
587 during the second month immediately following. Adjustments between advance payments for
588 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of
589 the following month; Provided, That any revised schedule submitted by the Contractor pursuant
590 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
591 Contract during any month shall be accompanied with appropriate advance payment, at the Rates
592 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
593 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
594 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
595 additional Project Water shall be delivered to the Contractor unless and until an advance
596 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
597 between the advance payments for the Water Scheduled and payments for the quantities of Water

598 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
599 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried
600 over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last
601 day of February.

602 (e) The Contractor shall also make a payment in addition to the Rate(s) in
603 subdivision (d) of this Article to the United States for Water Delivered, at the Charges then in
604 effect, before the end of the month following the month of delivery. The payments shall be
605 consistent with the quantities of M&I Water Delivered as shown in the water delivery report for
606 the subject month prepared by the Operating Non-Federal Entity(ies) or, if there is no Operating
607 Non-Federal Entity(ies), by the Contracting Officer. The water delivery report shall be deemed a
608 bill for the payment of Charges for Water Delivered. Adjustment for overpayment or
609 underpayment of Charges shall be made through the adjustment of payments due to the United
610 States for Charges for the next month. Any amount to be paid for past due payment of Charges
611 shall be computed pursuant to Article 19 of this Contract.

612 (f) The Contractor shall pay for any Water Delivered under subdivision (a),
613 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to
614 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting
615 policies; Provided, That the Rate for Water Delivered under subdivision (f) of Article 3 of this
616 Contract shall be no more than the otherwise applicable Rate for M&I Water under subdivision
617 (a) of this Article.

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

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

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

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

639 (k) Omitted.

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

648 (m) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
649 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates,

650 adjusted upward or downward to reflect the changed costs, if any, incurred by the Contracting
651 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in
652 accordance with the then-applicable Project ratesetting policy.

653 (n) Omitted.

654 (o) Omitted

655 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

656 8. Omitted.

657 SALES, TRANSFERS, OR EXCHANGES OF WATER

658 9. (a) The right to receive Project Water provided for in this Contract may be
659 sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of
660 California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,
661 and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project
662 Water under this Contract may take place without the prior written approval of the Contracting
663 Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or
664 exchanges shall be approved absent all appropriate environmental documentation, including but
665 not limited to documents prepared pursuant to the NEPA and ESA. Such environmental
666 documentation should include, as appropriate, an analysis of groundwater impacts and economic
667 and social effects, including environmental justice, of the proposed water transfers on both the
668 transferor and transferee.

669 (b) In order to facilitate efficient water management by means of water
670 transfers of the type historically carried out among Project Contractors located within the same
671 geographical area and to allow the Contractor to participate in an accelerated water transfer
672 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,
673 all necessary environmental documentation including, but not limited to, documents prepared
674 pursuant to the NEPA and ESA analyzing annual transfers within such geographical areas, and
675 the Contracting Officer shall determine whether such transfers comply with applicable law.

676 Following the completion of the environmental documentation, such transfers addressed in such
677 documentation shall be conducted with advance notice to the Contracting Officer, but shall not
678 require prior written approval by the Contracting Officer. Such environmental documentation
679 and the Contracting Officer's compliance determination shall be reviewed every five years and
680 updated, as necessary, prior to the expiration of the then-existing five-year period. All
681 subsequent environmental documentation shall include an alternative to evaluate not less than the
682 quantity of Project Water historically transferred within the same geographical area.

683 (c) For a water transfer to qualify under subdivision (b) of this Article, such
684 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three
685 years, for M&I use, groundwater recharge, water banking or similar groundwater activities,
686 surface water storage, or fish and wildlife resources; not lead to land conversion; and be
687 delivered to established cropland, wildlife refuges, groundwater basins or M&I use, or for fish
688 and wildlife purposes; (ii) occur within a single Year; (iii) occur between a willing seller and a
689 willing buyer; (iv) convey water through existing facilities with no new construction or
690 modifications to facilities and be between existing Project Contractors and/or the Contractor and
691 the United States, Department of the Interior; and (v) comply with all
692 applicable Federal, State, and local or tribal laws and requirements imposed for protection of the
693 environment and Indian Trust Assets, as defined under Federal law.

694 (d) Solely for the purpose of determining whether Section 3405(a)(1)(M) of
695 the CVPIA applies to the Contractor as a transferor or transferee of Project Water, the
696 Contracting Officer acknowledges that the Contractor is within a county, watershed or other area
697 of origin, as those terms are utilized under California law, of water that constitutes the natural
698 flow of the American River and its tributaries above the confluence of the American and
699 Sacramento Rivers.

700 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

718 TEMPORARY REDUCTIONS--RETURN FLOWS

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

724 (b) The Contracting Officer may temporarily discontinue or reduce the
725 quantity of Water Delivered to the Contractor as herein provided for the purposes of

726 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or
727 any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
728 feasible the Contracting Officer will give the Contractor due notice in advance of such temporary
729 discontinuance or reduction, except in case of emergency, in which case no notice need be given;
730 Provided, That the United States shall use its best efforts to avoid any discontinuance or
731 reduction in such service. Upon resumption of service after such reduction or discontinuance,
732 and if requested by the Contractor, the United States will, if possible, deliver the quantity of
733 Project Water which would have been delivered hereunder in the absence of such discontinuance
734 or reduction.

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

741 CONSTRAINTS ON THE AVAILABILITY OF WATER

742
743 12. (a) In its operation of the Project, the Contracting Officer will use all
744 reasonable means to guard against a Condition of Shortage in the quantity of water to be made
745 available to the Contractor pursuant to this Contract. In the event the Contracting Officer
746 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
747 Contractor of said determination as soon as practicable.
748

749 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting
750 or other similar operational errors affecting the Project; drought and other physical or natural
751 causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer
752 to meet current and future legal obligations, then, except as provided in subdivision (a) of Article
753 17, no liability shall accrue against the United States or any of its officers, agents, or employees
754 for any damage, direct or indirect, arising therefrom.

755 (c) Omitted.

756 (d) Project Water furnished under this Contract will be allocated in

757 accordance with the then-existing Project M&I Water Shortage Policy. Such policy shall be
758 amended, modified, or superseded only through a public notice and comment procedure.

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

766 UNAVOIDABLE GROUNDWATER PERCOLATION

767 13. Omitted.

768 RULES, REGULATIONS AND DETERMINATIONS

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

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

778 PROTECTION OF WATER AND AIR QUALITY

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

785
786 (b) The Contractor will comply with all applicable water and air pollution
787 laws and regulations of the United States and the State of California; and will obtain all required
788 permits or licenses from the appropriate Federal, State, or local authorities necessary for the
789 delivery of water by the Contractor; and shall be responsible for compliance with all Federal,
790 State, and local water quality standards applicable to surface and subsurface drainage and/or

791 discharges generated through the use of Federal or Contractor facilities or Project Water
792 provided by the Contractor within its Project Water Service Area

793 WATER ACQUIRED BY THE CONTRACTOR
794 OTHER THAN FROM THE UNITED STATES

795 16. (a) Omitted.

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

801 (1) The Contractor may introduce non-Project water into Project
802 facilities and deliver said water to lands within the Contractor's Service Area, subject to payment
803 to the United States of an appropriate rate as determined by the applicable Project ratesetting
804 policy and the Project use power policy, if such Project use power policy is applicable, each as
805 amended, modified, or superseded from time to time. In addition, if electrical power is required
806 to pump non-Project water through the facilities, the Contractor shall be responsible for
807 obtaining the necessary power and paying the necessary charges therefore.

808 (2) Delivery of such non-Project water in and through Project facilities
809 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project
810 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water
811 available to other Project contractors; (iii) interfere with the delivery of contractual water
812 entitlements to any other Project water service contractors; or (iv) interfere with the physical
813 maintenance of the Project facilities; Provided, that nothing in this Article is intended to limit the
814 United States' obligation to pass the Contractor's Diversion Water through Project storage
815 facilities to the extent required under the applicable provisions of California law.

816 (3) The United States shall not be responsible for control, care, or
817 distribution of the non-Project water before it is introduced into or after it is delivered from the
818 Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United

819 States and their respective officers, agents, and employees, from any claim for damage to
820 persons or property, direct or indirect, resulting from the acts of the Contractor or its officers,
821 employees, agents or assigns, in (i) extracting or diverting non-Project water from any source, or
822 (ii) diverting such non-Project water into Project facilities.

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

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

831 OPINIONS AND DETERMINATIONS

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

842 COORDINATION AND COOPERATION

843 18. (a) In order to further their mutual goals and objectives, the Contracting
844 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and

845 with other affected Project Contractors, in order to improve the operation and management of the
846 Project. The communication, coordination, and cooperation regarding operations and
847 management shall include, but not be limited to, any action which will or may materially affect
848 the quantity or quality of Project Water supply, the allocation of Project Water supply, and
849 Project financial matters including, but not limited to, budget issues. The communication,
850 coordination, and cooperation provided for hereunder shall extend to all provisions of this
851 Contract. Each party shall retain exclusive decision making authority for all actions, opinions,
852 and determinations to be made by the respective party.

853 (b) Within 120 days following the effective date of this Contract, the
854 Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet
855 with interested Project Contractors to develop a mutually agreeable, written Project-wide
856 process, which may be amended as necessary separate and apart from this Contract. The goal of
857 this process shall be to provide, to the extent practicable, the means of mutual communication
858 and interaction regarding significant decisions concerning Project operation and management on
859 a real-time basis.

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

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

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

870 (3) The Secretary will coordinate with Project Contractors and the

871 State of California to seek improved water resource management.

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

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

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

882 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

900

EQUAL EMPLOYMENT OPPORTUNITY

901

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

902

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

912

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

916

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

926

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

932

(e) The Contractor will comply with all provisions of Executive Order 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

934

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

938

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

946 (h) The Contractor will include the provisions of paragraphs (a) through (h) in
947 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
948 Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September
949 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The
950 Contractor will take such action with respect to any subcontract or purchase order as may be
951 directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions
952 for noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or
953 is threatened with, litigation with a subcontractor or vendor as a result of such direction, the
954 Contractor may request the United States to enter into such litigation to protect the interests of
955 the United States.

956
957 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

971 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

972 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
973 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as
974 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135,
975 Title III; 42 U.S.C. § 6101, et seq.), [Title II of the Americans with Disabilities Act of 1990
976 (Pub. L. 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and
977 with the applicable implementing regulations and any guidelines imposed by the U.S.

978 Department of the Interior and/or Bureau of Reclamation.

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

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

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

996
997

PRIVACY ACT COMPLIANCE

998 23. Omitted.

999 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1000 24. In addition to all other payments to be made by the Contractor pursuant to this
1001 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
1002 detailed statement submitted by the Contracting Officer to the Contractor for such specific items
1003 of direct cost incurred by the United States for work requested by the Contractor associated with
1004 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies
1005 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed
1006 to in writing in advance by the Contractor. This Article shall not apply to costs for routine
1007 contract administration.

1008

WATER CONSERVATION

1009

1010 25. (a) Prior to the delivery of water provided from or conveyed through federally
1011 constructed or federally financed facilities pursuant to this Contract, the Contractor shall develop

1012 a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of
1013 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

1014 Additionally, an effective water conservation and efficiency program shall be based on the
1015 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
1016 the conservation and efficiency criteria for evaluating water conservation plans established under
1017 Federal law. The water conservation and efficiency program shall contain definite water
1018 conservation objectives, appropriate economically feasible water conservation measures, and
1019 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
1020 Contract shall be contingent upon the Contractor's continued implementation of such water
1021 conservation program. In the event the Contractor's water conservation plan or any revised water
1022 conservation plan completed pursuant to subdivision (d) of Article 25 of this Contract have not
1023 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
1024 the Contracting Officer determines are beyond the control of the Contractor, water deliveries
1025 shall be made under this Contract so long as the Contractor diligently works with the Contracting
1026 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
1027 immediately begins implementing its water conservation and efficiency program in accordance
1028 with the time schedules therein.

1029 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1030 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall
1031 implement the Best Management Practices identified by the time frames issued by the Mid-
1032 Pacific Region's then-existing conservation and efficiency criteria for such M&I Water unless
1033 any such practice is determined by the Contracting Officer to be inappropriate for the Contractor.

1034 (c) The Contractor shall submit to the Contracting Officer a report on the
1035 status of its implementation of the water conservation plan on the reporting dates specified in the
1036 then existing conservation and efficiency criteria established under Federal law.

1037 (d) Prior to the expiration of the currently approved water conservation plan,
1038 and thereafter at five (5)-year intervals, the Contractor shall revise its water conservation plan to

1039 reflect the then-existing conservation and efficiency criteria for evaluating water conservation
1040 plans established under Federal law and submit such revised water conservation plan to the
1041 Contracting Officer for review and evaluation. The Contracting Officer will then
1042 determine if the water conservation plan meets Reclamation's then-existing conservation and
1043 efficiency criteria for evaluating water conservation plans established under Federal law.

1044 (e) If the Contractor is engaged in direct ground-water recharge, such activity
1045 shall be described in the Contractor's water conservation plan.

1046 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1047 26. Except as specifically provided in Article 16 of this Contract, the provisions of
1048 this Contract shall not be applicable to or affect non-Project water or water rights now owned or
1049 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1050 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1051 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or
1052 any water user within the Contractor's Service Area acquires or has available under any other
1053 contract pursuant to Federal Reclamation law.

1054 OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

1055 27. Omitted.

1056 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1057 28. The expenditure or advance of any money or the performance of any obligation of
1058 the United States under this Contract shall be contingent upon appropriation or allotment of
1059 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1060 obligations under this Contract. No liability shall accrue to the United States in case funds are
1061 not appropriated or allotted.

1062 BOOKS, RECORDS, AND REPORTS

1063 29. (a) The Contractor shall establish and maintain accounts and other books and
1064 records pertaining to administration of the terms and conditions of this Contract, including the
1065 Contractor's financial transactions; water supply data; project operation, maintenance, and
1066 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop
1067 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting
1068 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on

1069 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws
1070 and regulations, each party to this Contract shall have the right during office hours to examine
1071 and make copies of the other party's books and records relating to matters covered by this
1072 Contract.

1073 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1074 books, records, or other information shall be requested from the Contractor by the Contracting
1075 Officer unless such books, records, or information are reasonably related to the administration or
1076 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1077 time within which to provide the requested books, records, or information.

1078 (c) Omitted.

1079 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1080 30. (a) The provisions of this Contract shall apply to and bind the successors and
1081 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1082 therein by either party shall be valid until approved in writing by the other party.

1083 (b) The assignment of any right or interest in this Contract by either party
1084 shall not interfere with the rights or obligations of the other party to this Contract absent the
1085 written concurrence of said other party.

1086 (c) The Contracting Officer shall not unreasonably condition or withhold his
1087 approval of any proposed assignment.

1088 SEVERABILITY

1089 31. In the event that a person or entity who is neither (i) a party to a Project contract,
1090 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
1091 an association or other form of organization whose primary function is to represent parties to
1092 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1093 enforceability of a provision included in this Contract and said person, entity, association, or
1094 organization obtains a final court decision holding that such provision is legally invalid or
1095 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1096 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such

1097 final court decision identify by mutual agreement the provisions in this Contract which must be
1098 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).
1099 The time periods specified above may be extended by mutual agreement of the parties. Pending
1100 the completion of the actions designated above, to the extent it can do so without violating any
1101 applicable provisions of law, the United States shall continue to make the quantities of Project
1102 Water specified in this Contract available to the Contractor pursuant to the provisions of this
1103 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1104 RESOLUTION OF DISPUTES

1105 32. Should any dispute arise concerning any provisions of this Contract, or the
1106 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1107 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1108 Officer referring any matter to Department of Justice, the party shall provide to the other party
1109 30 days' written notice of the intent to take such action; Provided, That such notice shall not be
1110 required where a delay in commencing an action would prejudice the interests of the party that
1111 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer
1112 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,
1113 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
1114 United States may have.

1115 OFFICIALS NOT TO BENEFIT

1116 33. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1117 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1118 manner as other water users or landowners.

1119 CHANGES IN CONTRACTOR'S SERVICE AREA OR ORGANIZATION

1120 34. (a) While this Contract is in effect, no change may be made in the
1121 Contractor's Service Area or organization, by inclusion or exclusion of lands or by any other
1122 changes which may affect the respective rights, obligations, privileges, and duties of either the
1123 United States or the Contractor under this Contract including, but not limited to, dissolution,
1124 consolidation, or merger, except upon the Contracting Officer's written consent.

1125 (b) Within 30 days of receipt of a request for such a change, the Contracting

1126 Officer will notify the Contractor of any additional information required by the Contracting
1127 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1128 schedule for timely completion of the process. Such process will analyze whether the proposed
1129 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1130 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1131 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1132 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1133 Contracting Officer shall comply with the NEPA and ESA. The Contractor will be responsible
1134 for all costs incurred by the Contracting Officer in this process, and such costs will be paid in
1135 accordance with Article 24 of this Contract.

1136 FEDERAL LAWS

1137 35. By entering into this Contract, the Contractor does not waive its rights to contest
1138 the validity or application in connection with the performance of the terms and conditions of this
1139 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1140 the terms and conditions of this Contract unless and until relief from application of such Federal
1141 law or regulation to the implementing provision of the Contract is granted by a court of
1142 competent jurisdiction.

1143 NOTICES

1144 36. Any notice, demand, or request authorized or required by this Contract shall be
1145 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1146 delivered to the Area Manager, Central California Area Office, Bureau of Reclamation, 7794
1147 Folsom Dam Rd., Folsom, CA 95630-1799, and on behalf of the United States, when mailed,
1148 postage prepaid, or delivered to the Board of Directors of the Placer County Water Agency, P. O.
1149 Box 6570, Auburn, California 95604. The designation of the addressee or the address may be
1150 changed by notice given in the same manner as provided in this Article for other notices.

1151 MEDIUM FOR TRANSMITTING PAYMENTS

1152
1153
1154 37. (a) All payments from the Contractor to the United States under this Contract
1155 shall be by the medium requested by the United States on or before the date payment is due. The
1156 required method of payment may include checks, wire transfers, or other types of payment
1157 specified by the United States.

1158 (b) The Contractor shall furnish the Contracting Officer with the Contractor's
1159 taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for
1160 collecting and reporting any delinquent amounts arising out of the Contractor's relationship with
1161 the United States.

1162
1163 CONTRACT DRAFTING CONSIDERATIONS

1164
1165 38. This amended Contract has been negotiated and reviewed by the parties hereto,
1166 each of whom is sophisticated in the matters to which this amended Contract pertains. The
1167 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by
1168 the parties, and no one party shall be considered to have drafted the stated articles. Single-
1169 spaced articles are standard articles pursuant to Reclamation policy.

1170
1171 CERTIFICATION OF NONSEGREGATED FACILITIES

1172 39. Omitted

1173
1174 CONFIRMATION OF CONTRACT

1175
1176 40. Omitted

1177

EXHIBIT A

Placer County Water Agency
[Map or Description of Service Area]

EXHIBIT B

RATES AND CHARGES
(PLACEHOLDER)

EXHIBIT C

REPAYMENT OBLIGATION AND PAYOFF SCHEDULE
(PLACEHOLDER)