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

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

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2 UNITED STATES  
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5 American River Division, Central Valley Project, California

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

11 THIS CONTRACT, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, in pursuance  
12 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,  
13 including, but not limited to, the acts of August 26, 1937 (50 Stat. 844), as amended and supplemented;  
14 August 4, 1939 (53 Stat. 1187), as amended and supplemented; June 21, 1963 (77 Stat. 68); October 12,  
15 1982 (96 Stat. 1262), as amended; November 5, 1990 (104 Stat. 2074), Title XXXIV of the Act of  
16 October 30, 1992 (106 Stat. 4706), as amended, and the Water Infrastructure Improvements for the  
17 Nation Act (Pub. L. 114-322, 130 Stat.1628), Section 4011 (a-d) and (f) (“WIIN Act”), all collectively  
18 hereinafter referred to as the Federal Reclamation law between THE UNITED STATES OF AMERICA,  
19 hereinafter referred to as the United States, represented by the officer executing this Contract,  
20 hereinafter referred to as the Contracting Officer, and SACRAMENTO COUNTY WATER AGENCY,  
21 hereinafter referred to as the Contractor, a public agency of the State of California, duly organized,  
22 existing, and acting pursuant to the laws thereof, with its principal place of business in Sacramento,  
23 California;

24 WITNESSETH, That:

25 EXPLANATORY RECITALS

26 [1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley  
27 Project, California, for diversion, storage, carriage, and distribution of waters of the Sacramento,

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

31 [2<sup>nd</sup>] WHEREAS, the United States constructed Folsom Dam and Reservoir and appurtenant  
32 facilities, hereinafter collectively referred to as the Project facilities, which will be used in part for the  
33 furnishing of water to the Contractor pursuant to the terms of this Contract; and

34 [3<sup>rd</sup>] WHEREAS, Section 206(b) of P. L. 101-514 (104 Stat. 2074) authorized and directed the  
35 Secretary of the Interior to enter into a municipal and industrial (M&I) water supply contract with the  
36 Contractor, not to exceed 22,000 acre-feet annually, to meet the immediate needs of Sacramento County,  
37 and as the first phase of a contracting program to meet the long-term water supply needs of Sacramento  
38 County; and

39 [4<sup>th</sup>] WHEREAS, Section 206(b) of P. L. 101-514 provided that annual quantities delivered  
40 under that contract will be determined by the Contracting Officer based upon the quantity of water  
41 actually needed in the Sacramento County Water Agency service area, after considering factors  
42 specified in the statute; and

43 [5<sup>th</sup>] WHEREAS, Section 203 of P. L. 108-137 subsequently deleted the requirement imposed by  
44 Section 206(b) of P. L. 101-514, and eliminated the need for the Contracting Officer to determine the  
45 water needs in the Sacramento County Water Agency service area and quantities of water to be  
46 delivered on an annual basis; and

47 [6<sup>th</sup>] WHEREAS, Section 206(b) of P.L. 101-514 specified that the contracts entered into  
48 pursuant to that section were exempt from the general prohibition on new Central Valley Project  
49 contracts contained in Section 3404 of the Central Valley Project Improvement Act (CVPIA); and

50 [7<sup>th</sup>] WHEREAS, on April 8, 1999, the United States and Contractor entered into a long-term

51 water service contract identified as Contract No. 6-07-20-W1372 (“Existing Contract”), to provide the  
52 Contractor with Project Water through April 8, 2024, and which was in effect on the date the WIIN Act  
53 was enacted; and

54 [8<sup>th</sup>] WHEREAS, on December 21, 2016, the United States, the Contractor and the City of  
55 Folsom executed a partial assignment of the Existing Contract whereby the Contractor assigned, and the  
56 City of Folsom accepted, the rights to and obligations for 7,000 acre-feet of Project Water contained in  
57 the Existing Contract; and

58 [9<sup>th</sup>] WHEREAS, on December 16, 2016, the 114<sup>th</sup> Congress of the United States of America  
59 enacted the WIIN Act; and

60 [10<sup>th</sup>] WHEREAS, WIIN Act, Section 4011(a)(1) provides that “upon request of the contractor,  
61 the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of  
62 this subtitle and between the United States and a water users’ association [Contractor] to allow for  
63 prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and  
64 conditions.”; and

65 [11<sup>th</sup>] WHEREAS, WIIN Act, Section 4011(a)(1) further provides that “the manner of  
66 conversion under this paragraph shall be as follows: (A) Water service contracts that were entered into  
67 under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be  
68 converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)”; and “(B) Water service  
69 contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat.  
70 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of  
71 section 9 of that Act (53 Stat. 1195).”; and

72 [12<sup>th</sup>] WHEREAS, WIIN Act, Section 4011(a)(4)(C) further provides all contracts entered into  
73 pursuant to WIIN Act, Section 4011(a)(1), (2), and (3) shall “not modify other water service, repayment,

74 exchange and transfer contractual rights between the water users' association [Contractor], and the  
75 Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association  
76 [Contractor] and their landowners as provided under State law.”; and

77 [13<sup>th</sup>] WHEREAS, WIIN Act, Section 4011(d)(3) and (4) provides that “implementation of the  
78 provisions of this subtitle shall not alter...(3) the priority of a water service or repayment contractor to  
79 receive water; or (4) except as expressly provided in this section, any obligations under the reclamation  
80 law, including the continuation of Restoration Fund charges pursuant to section 3407(d) (Public Law  
81 102-575), of the water service and repayment contractors making prepayments pursuant to this section.”;  
82 and

83 [14<sup>th</sup>] WHEREAS, upon the request of the Contractor, the WIIN Act directs the Secretary to  
84 convert municipal and industrial (M&I) water service contracts into repayment contracts, amend  
85 existing repayment contracts, and allow contractors to prepay their construction cost obligations  
86 pursuant to applicable Federal Reclamation law; and

87 [15<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree to amend and convert the  
88 Existing Contract pursuant to Section 4011 of the WIIN Act and other Federal Reclamation law on the  
89 terms and conditions set forth below in this Contract; and

90 [16<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree that this Contract complies  
91 with Section 4011 of the WIIN Act; and

92 [17<sup>th</sup>] WHEREAS, the Contracting Officer has determined that the Contractor has the capability  
93 to fully utilize for reasonable and beneficial use, or shown projected future reasonable and beneficial use  
94 for, the quantity of Project Water to be made available to it pursuant to this Contract.

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

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DEFINITIONS

1. When used herein unless otherwise distinctly expressed, or manifestly incompatible with the intent hereof, the term:

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

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

(c) "Contract Use Area" shall mean the area to which the Contractor is permitted, subject to Article 5(c), to provide Project Water obtained under this Contract. As of the date of this Contract, the Contract Use Area is the area identified in Exhibit B as "Zone 40" and "Zone 40 Expansion Area". The Contract Use Area may be revised by the Contractor without amending this Contract if such revisions are approved in writing by the Contracting Officer.

(d) "Contractor's Service Area" shall mean all areas or locations within the Contract Use Area that receive surface water service or commingled ground water and surface water service from the Contractor. For the purposes of subdivisions (b)(1) and (b)(2) of Article 3, the Contractor's Service Area shall include any area or location at which the Contractor intends to provide surface water service or commingled ground water and surface water service in a Year for which a determination under subdivisions (b)(1) or (b)(2) of Article 3 is made.

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

(f) Omitted.

119 (g) "Delivered Water" or "Water Delivered" shall mean Project Water made available  
120 to the Contractor and diverted at the point(s) of delivery approved by the Contracting Officer;

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

124 Water uses established before [effective date of this Contract] and known to the Contracting Officer and  
125 the Contractor are deemed to be authorized uses of M&I Water.

126 (i) "M&I Full Cost Rate" shall mean the annual rate, which as determined by the  
127 Secretary, shall amortize the expenditures for construction allocable to Project M&I facilities in service,  
128 including all operation and maintenance (O&M), O&M deficits funded, less payments, over such  
129 periods as may be required under Federal Reclamation law or applicable contract provisions, with  
130 interest on both accruing from the dates such costs were first incurred plus the applicable rate for the  
131 O&M of such Project facilities;

132 (j) "O&M" shall mean normal and reasonable care, control, operation, repair,  
133 replacement, and maintenance of Project facilities;

134 (k) "Operating Non-Federal Entity" shall mean a Non-Federal entity which has the  
135 obligation to operate and maintain all or that portion of the American River Division facilities utilized  
136 for delivery of Project Water to the Contractor pursuant to an agreement with the United States;

137 (l) "Project" shall mean the Central Valley Project owned by the United States and  
138 operated by the Department of the Interior, Bureau of Reclamation;

139 (m) "Project Water" shall mean all water that is developed, diverted, stored, or  
140 delivered by the United States in accordance with the statutes authorizing the Project and in accordance  
141 with the terms and conditions of applicable water rights' permits and licenses acquired by and/or issued  
142 to the United States pursuant to California law;

- 143 (n) "Rates" shall mean the payments determined annually by the Contracting Officer  
144 in accordance with the then current applicable water rate setting policies for the Project;
- 145 (o) "Secretary" or "Contracting Officer" shall mean the Secretary of the United States  
146 Department of the Interior or his duly authorized representative;
- 147 (p) Omitted.
- 148 (q) "Year" shall mean the period from and including March 1 of each Calendar Year  
149 through the last day of February of the following Calendar Year;
- 150 (r) "Irrigation Water" shall mean the use of Project Water to irrigate land primarily  
151 for the production of commercial agricultural crops or livestock, and domestic and other uses that are  
152 incidental thereto;
- 153  
154 (s) "Additional Capital Obligation" shall mean construction costs or other capitalized  
155 costs incurred after effective date of Contract or not reflected in the Existing Capital Obligation as  
156 defined herein and in accordance with WIIN Act, Section 4011, subsection (a)(3)(B);
- 157 (t) "Existing Capital Obligation" shall mean the remaining amount of construction  
158 costs or other capitalized costs allocable to the Contractor as described in Section 4011, subsection  
159 (a)(3)(A) of the WIIN Act, and as identified in the Central Valley Project Irrigation Water Rates and/or  
160 Municipal and Industrial Water Rates, respectively, dated Month/Day/Year specify ratebook year for  
161 all contractors.], as adjusted to reflect payments not reflected in such schedule. The Contracting  
162 Officer has computed the Existing Capital Obligation and such amount is set forth in Exhibit C, which is  
163 incorporated herein by reference; and
- 164 (u) "Repayment Obligation" shall mean the amount due and payable to the United  
165 States, pursuant to Section 4011(a)(3)(A) of the WIIN Act.
- 166 (v) "Condition of Shortage" shall mean a condition respecting the Project during any  
167 Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract Total;

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

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

173 (y) "Project Contractors" shall mean all parties who have contracts for water service  
174 for Project Water from the Project with the United States pursuant to Federal Reclamation law.

175  
176 TERM OF CONTRACT – RIGHT TO USE WATER

177 2. (a) This Contract shall be effective as of \_\_\_\_\_, 2020 ("Effective  
178 Date"), and shall continue so long as the Contractor pays applicable Rates and Charges under this  
179 Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as  
180 applicable, and applicable law;

181 (1) Provided, That the Contracting Officer shall not seek to terminate this  
182 Contract for failure to fully or timely pay applicable Charges by the Contractor, unless the Contracting  
183 Officer has first provided at least sixty (60) calendar days written notice to the Contractor of such failure  
184 to pay and Contractor has failed to cure such failure to pay, or to diligently commence and maintain full  
185 curative payments satisfactory to the Contracting Officer within the sixty (60) calendar days' notice  
186 period;

187 (2) Provided further, That the Contracting Officer shall not seek to suspend  
188 making water available or declaring Water Made Available pursuant to this Contract for non-compliance  
189 by the Contractor with the terms of this Contract or Federal law, unless the Contracting Officer has first  
190 provided at least thirty (30) calendar days written notice to the Contractor and the Contractor has failed  
191 to cure such non-compliance, or to diligently commence curative actions satisfactory to the Contracting

192 Officer for a non-compliance that cannot be fully cured within the thirty (30) calendar days' notice  
193 period. If the Contracting Officer has suspended making water available pursuant to this paragraph,  
194 upon cure of such noncompliance satisfactory to the Contracting Officer, the Contracting Officer shall  
195 resume making water available and declaring Water Made Available pursuant to this Contract;

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

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

202 (c) Omitted

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

205 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

206 3. (a) Subject to the provisions set forth in Articles 3(b), 5(c), 11, and 12 hereof, and  
207 consistent with applicable State water rights, permits, and licenses, the Contractor is entitled to, and the  
208 Contracting Officer shall be obligated to make available to the Contractor up to 15,000 acre-feet of  
209 Project Water during any Year for municipal and industrial uses in the Contract Use Area. The quantity  
210 of Project Water delivered to the Contractor in accordance with subdivision (a) of this Article in any  
211 Year shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 hereof, and shall not  
212 exceed the quantity of Project Water the Contractor intends to put to reasonable beneficial use within the  
213 Contract Use Area, or sold, transferred, or exchanged, subject to Article 9, during any Year.

214 (b) (1) Notwithstanding the provisions of subdivision (a) of this Article, as

215 provided in Section 206(b)(1) of P. L. 101-514, the Contracting Officer shall determine, and annual  
216 quantities of water delivered under this Contract shall be based upon, the quantity of water actually  
217 needed within the Contractor's Service Area, after considering reasonable efforts to: (i) promote full  
218 utilization of existing water entitlements within Sacramento County; (ii) implement water conservation  
219 and metering programs within the area served by the Contract; and (iii) implement programs to  
220 maximize to the extent feasible conjunctive use of surface water and ground water. The Contracting  
221 Officer has reviewed the Final Needs Assessment Pertaining to the Sacramento County Water Agency  
222 EIS/EIR for Water Supply Contracts under P. L. 101-514 Section 206 (Beak Consultants, Inc., January  
223 1995) (Needs Analysis) and based on that analysis agrees (after considering reasonable efforts to:  
224 promote full utilization of existing entitlements within Sacramento County; implement water  
225 conservation and metering programs within the area served by the Contract; and implement programs to  
226 maximize to the extent feasible the conjunctive use of surface water and ground water) that the quantity  
227 of water actually needed by the Contractor within the Contract Use Area exceeds 15,000 acre-feet per  
228 annum, although scheduled deliveries may be less than this amount until facilities are completed . The  
229 Contractor shall, on or before November 1 of each Year or such other date as the Contractor and  
230 Contracting Officer may agree, notify the Contracting Officer of the quantity of water the Contractor  
231 believes will actually be needed in the Contractor's Service Area in the succeeding Year. Except as  
232 provided in subdivision (b)(2) of this Article, the notice shall be accompanied by an analysis sufficient  
233 to demonstrate the basis for the Contractor's notification. The Needs Analysis is sufficient to  
234 demonstrate the basis for notification with respect to at least 15,000 acre-feet of water. The Contracting  
235 Officer shall review the analysis provided by the Contractor based on any lawful M&I water needs  
236 criteria that are then being applied to all CVP M&I contracts. The Contracting Officer shall notify the  
237 Contractor in writing of the Contracting Officer's determination of the quantity of water actually needed

238 within the Contractor's Service Area for the following Year. If the determination is that the quantity  
239 actually needed is less than the amount identified in the Contractor's notice, the notice of determination  
240 from the Contracting Officer shall explain in detail the basis for the Contracting Officer's determination.  
241 If the Contracting Officer's written determination is not made within sixty (60) days after the receipt of  
242 the notice, the Contractor may schedule the quantity of water specified in the notice subject to the  
243 quantity of Project Water available pursuant to Articles 3(a), 4(a), 11, and 12.

244 (2) If the amount of water specified in the notice provided by the Contractor  
245 under subdivision (b)(1) of this Article is less than or equal to the amount determined by the Contracting  
246 Officer to have been actually needed for a Year prior to the Year for which the notice is submitted, the  
247 Contracting Officer's determination shall be deemed to equal the amount specified in the notice:  
248 Provided, That if within twenty (20) days of the receipt of the said notice, the Contracting Officer  
249 notifies the Contractor in writing that the Contracting Officer has determined that substantial changes in  
250 circumstances require the submittal of additional information by the Contractor and explains in detail the  
251 basis for such determination, the Contractor shall submit the additional information within thirty (30)  
252 days or other agreed period, and the procedures in subdivision (b)(1) of this Article apply.

253 (3) Omitted.

254 (c) Contractor's compliance with Articles 6 and 23 shall be deemed conclusively to  
255 constitute reasonable efforts to implement metering and conservation programs, respectively, within the  
256 Contractor's Service Area.

257 (d) The Contractor shall utilize the Project Water made available to it pursuant to this  
258 Contract in accordance with all applicable requirements of any Biological Opinion addressing the  
259 execution of this Contract developed pursuant to Section 7 of the Endangered Species Act of 1973 as

260 amended, and in accordance with environmental documentation as may be required for specific  
261 activities.

262 (e) The Contractor shall make reasonable and beneficial use of Project Water or other  
263 water furnished pursuant to this Contract. Use of Project Water in a ground-water recharge program  
264 shall be permitted under this Contract to the extent that it is recognized as a reasonable and beneficial  
265 use of water under California law and is otherwise carried out in accordance with California law.

266 (f) If the Contracting Officer determines that Project Water, or other water available  
267 to the Project, can be made available to the Contractor in addition to the quantity of Project Water made  
268 available to the Contractor pursuant to subdivision (a) of this Article, the Contracting Officer shall so  
269 notify the Contractor. If the Contractor requests the delivery of any quantity of such water, the  
270 Contracting Officer shall make such water available to the Contractor in accordance with applicable  
271 statutes, regulations, guidelines, and policies.

272 (g) If the Contractor requests permission to reschedule for use during the subsequent  
273 Year some or all of the Project Water made available to the Contractor during the current Year or to use,  
274 during the current Year, that quantity of Project Water the United States has agreed to make available to  
275 the Contractor during the subsequent Year, the Contracting Officer may permit such uses in accordance  
276 with applicable statutes, regulations, guidelines, and policies.

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

283 (i) Notwithstanding subdivision (a) of this Article, Project Water furnished to the  
284 Contractor pursuant to this Contract may be delivered for purposes other than for municipal and  
285 industrial purposes upon written approval by the Contracting Officer in accordance with the terms and  
286 conditions of such approval.

287 TIME FOR DELIVERY OF WATER

288 4. (a) On or about February 15, of each Calendar Year, the Contracting Officer shall  
289 declare the amount of Project Water estimated to be made available to the Contractor pursuant to this  
290 Contract for the upcoming Year. The declaration will be updated monthly, as necessary, based on  
291 current hydrologic conditions. The Contracting Officer shall make available the forecast of Project  
292 operations, with relevant supporting information, upon the written request of the Contractor or its  
293 representatives. Upon written request of the Contractor, the Contracting Officer shall provide the basis  
294 of the estimate which shall include, but not be limited to, the projected carryover of Project reservoirs,  
295 projected CVPIA impacts, projected Endangered Species Act impacts, and all other regulatory impacts.

296 (b) On or before each March 1, the Contractor shall submit to the Contracting Officer  
297 and at such other times as necessary, a written schedule, satisfactory to the Contracting Officer, showing  
298 the times and the estimated quantities of Project Water to be delivered by the United States to the  
299 Contractor.

300 (c) Subject to the conditions set forth in subdivision (a) of Article 3, the United States  
301 shall deliver Project Water to the Contractor in accordance with the initial schedule submitted by the  
302 Contractor pursuant to subdivision (b) of this Article, or any revision(s) thereto submitted within a  
303 reasonable time prior to the date(s) on which the requested change(s) is/are to be implemented.

304

305           POINT OF DELIVERY AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

306           5.       (a)       Project Water shall be made available to the Contractor, at the Contractor's  
307 option: (i) at the intake for the Sacramento River Water Treatment Plant owned by the City of  
308 Sacramento; (ii) at an intake on the Sacramento River at river mile 46.5; (iii) at an intake on the  
309 American River at river mile 0.4, located on assessor's parcel 001-0181-001-0000 owned by the  
310 Contractor; or (iv) without amending this Contract, at another location approved in writing by the  
311 Contracting Officer.

312                       (b)       The Contracting Officer shall make all reasonable efforts to maintain sufficient  
313 flows to the authorized points of delivery to allow the Contractor to meet the demands of the  
314 Contractor's customers.

315                       (c)       The parties acknowledge that the points of delivery identified in subdivisions  
316 (a)(i), (ii), and (iii) of this article were not, as of the date of the Existing Contract included as authorized  
317 points of diversion and rediversion under the water rights for the Project, and that portions of the  
318 Contract Use Area were also, not as of the date of the Contract within the place of use under the water  
319 rights for the Project. Project Water shall not be delivered from such points or to such lands unless and  
320 until such points are added to the water rights permits for the Project and such lands are included within  
321 the authorized place of use under the water rights for the Project. The parties also acknowledge that the  
322 Contracting Officer has petitioned the State Water Resources Control Board to include the necessary  
323 points of diversion and rediversion, and all of the Contract Use Area within the authorized place of use,  
324 and that the Contractor shall cooperate with and assist the Contracting Officer in prosecuting such  
325 petition to conclusion as soon as feasible.

326                       (d)       Project Water delivered to the Contractor pursuant to this Contract, and other  
327 water to which the Contractor is entitled that is diverted at the same point of delivery, shall be measured

328 and recorded with equipment furnished, installed, operated, and maintained by the Contractor at the  
329 point or points of delivery established pursuant to subdivision (a) of this Article. Provided, That if the  
330 Project Water delivered pursuant to this Contract is diverted at a location or in a manner so as to be  
331 commingled with water diverted by any other entity, the point of measurement for Project Water  
332 delivered to the Contractor shall be a location at which Project Water diverted for Contractor's use can  
333 be measured separately from water diverted by any such entity or entities. Upon the request of the  
334 Contracting Officer or the responsible Operating Non-Federal Entity, the Contractor shall investigate the  
335 accuracy of such measurements and shall take any necessary steps to adjust any errors appearing therein.

336 (e) The Contractor shall advise the Contracting Officer on or before the tenth  
337 calendar day of each month of the daily quantities of Delivered Water taken during the preceding month  
338 measured and recorded in accordance with subdivision (d) of this Article.

339 (f) Neither the United States nor any Operating Non-Federal Entity shall be  
340 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water made  
341 available to the Contractor pursuant to this Contract beyond the delivery points specified in subdivision  
342 (a) of this Article. The Contractor shall indemnify the United States its officers, employees, agents, and  
343 assigns on account of damage or claim of damage of any nature whatsoever for which there is legal  
344 responsibility, including property damage, personal injury, or death arising out of or connected with the  
345 control, carriage, handling, use, disposal, or distribution of such Project Water beyond such delivery  
346 points, except for any damage or claim arising out of (i) acts performed by the United States or any of its  
347 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with  
348 the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the United  
349 States or any of its officers, employees, agents, or assigns, including any responsible Operating Non-

350 Federal Entity; or (iii) negligence of the United States or any of its officers, employees, agents, or  
351 assigns, including any responsible Operating Non-Federal Entity.

352 MEASUREMENT OF WATER

353 6. (a) The Contractor shall ensure that, unless the Contractor establishes an alternative  
354 measurement program satisfactory to the Contracting Officer, all surface water delivered for municipal  
355 and industrial purposes within the Contractor's Service Area is measured at each municipal and  
356 industrial service connection. All water measuring devices or water measuring methods of comparable  
357 effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for  
358 installing, operating, and maintaining and repairing all such measuring devices and implementing all  
359 such water measuring methods at no cost to the United States. The Contractor shall use the information  
360 obtained from such water measuring devices or water measuring methods to ensure proper management  
361 of the water; to bill water users for water delivered by the Contractor; and, if applicable, to record  
362 water delivered for municipal and industrial purposes by customer class as defined in its water  
363 conservation plan. Nothing herein contained, however, shall preclude the Contractor from establishing  
364 and collecting any charges, assessments, or other revenues authorized by California law. The Contractor  
365 shall include a summary of its annual surface water deliveries in the annual report described in  
366 subdivision (c) of Article 23.

367 (b) To the extent the information has not otherwise been provided, upon execution of  
368 this Contract, the Contractor shall provide to the Contracting Officer a written report describing the  
369 measurement devices or water measuring methods used or to be used to implement subdivision (a) of  
370 this Article and identifying the municipal and industrial service connections or alternative measurement  
371 programs approved by the Contracting Officer, at which such measurement devices or water measuring  
372 methods are being used, and, if applicable, identifying the locations at which such devices and/or

373 methods are not yet being used including a time schedule for implementation at such locations. The  
374 Contracting Officer shall advise the Contractor in writing within ninety (90) days as to the adequacy of,  
375 and necessary modifications, if any, of the measuring devices or water measuring methods identified in  
376 the Contractor's report and if the Contracting Officer does not respond in such time, they shall be  
377 deemed adequate. Within six (6) months following the Contracting Officer's response, the parties shall  
378 negotiate in good faith the earliest practicable date by which the Contractor shall modify said measuring  
379 devices and/or measuring methods as required by the Contracting Officer to ensure compliance with  
380 subdivision (a) of this Article.

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

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

387 RATES, METHOD OF PAYMENT FOR WATER  
388 AND ACCELERATED REPAYMENT OF FACILITIES  
389

390 7. (a) Notwithstanding the Contractor's full prepayment of the Repayment Obligation  
391 pursuant to Section 4011, subsection (a)(3)(A) of the WIIN Act, as set forth in Exhibit C, and any  
392 payments required pursuant to Section 4011, subsection (b) of the WIIN Act, to reflect the adjustment  
393 for the final cost allocation as described in this Article, subsection (b), the Contractor's Project  
394 construction and other cost obligations shall be determined in accordance with: (i) the Secretary's  
395 ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's then-existing ratesetting  
396 policy for M&I Water, consistent with the WIIN Act; and such ratesetting policies shall be amended,  
397 modified, or superseded only through a public notice and comment procedure; (ii) applicable Federal

398 Reclamation law and associated rules and regulations, or policies; and (iii) other applicable provisions of  
399 this Contract. Payments shall be made by cash transaction, electronic funds transfers, or any other  
400 mechanism as may be agreed to in writing by the Contractor and the Contracting Officer. The Rates and  
401 Charges applicable to the Contractor upon execution of this Contract are set forth in Exhibit "A," as may  
402 be revised annually.

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

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

410 (A) The amount due and payable to the United States, pursuant to the  
411 WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been computed by the  
412 Contracting Officer in a manner consistent with the WIIN Act and is set forth as a lump sum payment as  
413 set forth in Exhibit C. The Repayment Obligation is due in lump sum within 60 days of the effective  
414 date of this Contract as provided by the WIIN Act. Notwithstanding any Additional Capital Obligation  
415 that may later be established, receipt of the Contractor's payment of the Repayment Obligation to the  
416 United States shall fully and permanently satisfy the Existing Capital Obligation.

417 (B) Additional Capital Obligations that are not reflected in the  
418 schedules referenced in Exhibit C and are properly assignable to the Contractor shall be repaid as  
419 prescribed by the WIIN Act without interest except as required by law. Consistent with Federal  
420 Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital

421 Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the Additional  
422 Capital Obligation assigned to the Contractor caused solely by annual adjustment of the Additional  
423 Capital Obligation assigned to each Project Contractor by the Secretary shall not be considered in  
424 determining the amounts to be paid pursuant to this subdivision (a)(2)(B), however, such increases or  
425 decreases will be considered under subdivision (b) of this Article. A separate agreement shall be  
426 established by the Contractor and the Contracting Officer to accomplish repayment of the Additional  
427 Capital Obligation assigned to the Contractor within the timeframe prescribed by the WIIN Act, subject  
428 to the following:

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

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

441 (b) In the event that the final cost allocation referenced in Section 4011(b) of the  
442 WIIN Act determines that the costs properly assignable to the Contractor are greater than what has been  
443 paid by the Contractor, the Contractor shall be obligated to pay the remaining allocated costs. The term

444 of such additional repayment contract shall be not less than one (1) year and not more than ten (10)  
445 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be  
446 developed by the Contractor and Contracting Officer. In the event that the final cost allocation indicates  
447 that the costs properly assignable to the Contractor are less than what the Contractor has paid, the  
448 Contracting Officer shall credit such overpayment as an offset against any outstanding or future  
449 obligations of the Contractor, with the exception of Restoration Fund charges pursuant to Section  
450 3407(d) of Public Law 102-575.

451 (c) If the amount of Delivered Water is less than or equal to eighty (80%) percent of  
452 the Contractor's maximum contractual entitlement to Project Water pursuant to subdivision (a) of Article  
453 3, then payment for all Delivered Water shall be at the applicable Rates specified in Exhibit A. If the  
454 amount of Delivered Water exceeds eighty (80%) percent of the Contractor's maximum contractual  
455 entitlement to Project Water pursuant to subdivision (a) of Article 3, then payment for that amount of  
456 Delivered Water, which equals eighty (80%) percent of the maximum contractual entitlement shall be at  
457 the applicable Rates specified in Exhibit A, but the payment for the increment of Delivered Water,  
458 which is in excess of eighty (80%) percent of the maximum contractual entitlement, shall be as follows:

459 (1) When the total amount of Delivered Water exceeds eighty (80%) percent  
460 of the maximum contractual entitlement, then the increment in excess of eighty (80%) percent, but less  
461 than or equal to ninety (90%) percent, shall be paid for by the Contractor at a rate equal to the average of  
462 the applicable Rate and the M&I Full Cost Rate; and

463 (2) When the total amount of Delivered Water exceeds ninety (90%) percent  
464 of the maximum contractual entitlement, then the increment in excess of ninety (90%) percent shall be  
465 paid for by the Contractor at the M&I Full Cost Rate.

466

467 (d) The Contracting Officer shall notify the Contractor of the Rates and Charges  
468 as follows:

469 (1) Prior to July 1, of each Calendar Year, the Contracting Officer shall  
470 provide the Contractor the preliminary calculation of the Charges that will be applied for the period  
471 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and  
472 identify the statutes, regulations, and guidelines used as the basis for such calculations. On or before  
473 September 15, of each Calendar Year, the Contracting Officer shall notify the Contractor in writing of  
474 the Charges to be in effect during the period October 1, of the current Calendar Year, through September  
475 30, of the following Calendar Year, and such notification shall revise Exhibit "A"; and

476 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall  
477 make available to the Contractor an estimate of the Rates of payment for the following Year and the  
478 computations and cost allocations upon which those Rates are based. The Contractor shall be allowed  
479 not less than two (2) months to review and comment on such computations and cost allocations. By  
480 December 31 of each Calendar Year, the Contracting Officer shall provide the Contractor with the  
481 final Rates to be in effect for the upcoming Year, and such notification shall revise Exhibit "A".

482 (e) At the time the Contractor submits the initial schedule for the delivery of Project  
483 Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall pay  
484 the United States the total amount payable pursuant to the applicable Rate(s) for all Project Water  
485 scheduled to be delivered pursuant to this Contract during the first two (2) calendar months of the Year.  
486 Before the end of the first month or part thereof of the Year, and before the end of each calendar month  
487 thereafter, the Contractor shall pay pursuant to the applicable Rate(s) for all Project Water scheduled to  
488 be delivered pursuant to this Contract during the second month immediately following. Adjustments  
489 between the payments for the scheduled amount of Project Water and the appropriate payments for

490 quantities of Delivered Water furnished pursuant to this Contract each month shall be made before the  
491 end of the following month and may be reflected in the payments made during the following month:  
492 Provided, That any revised schedule submitted by the Contractor pursuant to Article 4 that increases the  
493 amount of Project Water to be delivered pursuant to this Contract during any month shall be  
494 accompanied with appropriate payment for Rates to assure that Project Water is not furnished to the  
495 Contractor in advance of such payment. In any month in which the quantity of Delivered Water  
496 furnished to the Contractor pursuant to this Contract equals the quantity of Project Water scheduled and  
497 paid for by the Contractor, no additional Project Water shall be made available to the Contractor unless  
498 and until payment of Rates for such additional Project Water is made. Final adjustment between the  
499 payments of Rates for the Project Water scheduled and the quantities of Delivered Water furnished  
500 during each Year pursuant to this Contract shall be made as soon as possible, but no later than April 30  
501 of the following Year.

502 (f) The Contractor shall pay all Charges owing for Delivered Water before the end  
503 of the month following the month of delivery. Such amounts shall be consistent with the quantities of  
504 M&I Water shown in the United States' water delivery report for the subject month. The water delivery  
505 report shall be regarded by the Contractor as a bill for the payment of appropriate Charges. Any monthly  
506 adjustment for overpayment or underpayment of Charges shall be accomplished through the adjustment  
507 of Charges due to the United States in the next month. By March 31 of each Year, the Contractor shall  
508 make any additional payment of Charges it is obligated to make for Delivered Water furnished to the  
509 Contractor pursuant to this Contract for the previous Year. The amount to be paid for past due payment  
510 of Charges shall be computed pursuant to Article 18 of this Contract.

511 (g) The Contractor shall pay for any Project Water provided under subdivision (f) of  
512 Article 3 as determined by the Contracting Officer pursuant to applicable statutes, regulations,

513 guidelines, and policies.

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

516 (i) Revenues received by the United States pursuant to this Contract shall be  
517 allocated and applied in accordance with the Federal Reclamation law, including but not limited to  
518 subsection (f) of Section 3405 and subsection (d)(2)(A) of Section 3407 of the CVPIA, and the  
519 associated regulations, including but not limited to, the Project M&I rate setting policy promulgated  
520 pursuant to the Administrative Procedure Act.

521 (j) At the Contractor's request, the Contracting Officer shall provide to the  
522 Contractor an accounting of all of the expenses allocated and the disposition of all revenues received  
523 pursuant to this Contract in sufficient detail to allow the Contractor to determine that the allocation  
524 of expenses and disposition of all revenues received was accomplished in conformance with Federal  
525 Reclamation law and the associated regulations. The Contracting Officer and the Contractor shall enter  
526 into good faith negotiations to resolve any discrepancies or disputes arising out of said accounting of  
527 the Contractor's review thereof.

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

534 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICIT

535 8. The Contractor and the Contracting Officer concur that, at the time of the execution of  
536 this Contract, the Contractor has no non-interest bearing operation and maintenance deficit or other  
537 deficit of any kind.

538 TRANSFERS OR EXCHANGES OF WATER

539 9. (a) Project Water made available under this Contract shall not be sold, transferred,  
540 or exchanged to others outside the County of Sacramento.

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

549 APPLICATION OF PAYMENTS AND ADJUSTMENTS

550 10. (a) The amount of any overpayment by the Contractor shall be applied first to any  
551 accrued indebtedness arising out of this Contract then due and payable by the Contractor. Any amount  
552 of such overpayment then remaining shall, at the option of the Contractor, be refunded to the Contractor  
553 or credited upon amounts to become due to the United States from the Contractor under the provisions  
554 hereof in the following months. With respect to overpayment, such adjustment shall constitute the sole  
555 remedy of the Contractor or anyone having or claiming to have the right to the use of any of the water  
556 supply provided for herein.

557 (b) All advances for miscellaneous costs incurred for work requested by the  
558 Contractor pursuant to Article 22 shall be adjusted to reflect the actual costs when the work has been  
559 completed. If the advances exceed the actual costs incurred, the difference will be refunded to the  
560 Contractor. If the actual costs exceed the Contractor's advances, the Contractor will be billed for the  
561 additional costs pursuant to Article 22.

562 TEMPORARY REDUCTIONS-RETURN FLOWS

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

567 (b) The United States may temporarily discontinue or reduce the quantity of Project  
568 Water to be delivered to the Contractor as herein provided for the purposes of investigation, inspection,  
569 maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for the  
570 delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer will give the  
571 Contractor due notice in advance of such temporary discontinuance or reduction, except in case of  
572 emergency, in which case no notice need be given: Provided, That the United States shall use its best  
573 efforts to avoid any discontinuance or reduction in such service. Upon resumption of service after such  
574 reduction or discontinuance, and if requested by the Contractor, the United States will, if possible,  
575 deliver the quantity of Project Water that would have been delivered hereunder in the absence of such  
576 discontinuance or reduction: Provided further, That with respect to any quantity of Project Water not  
577 delivered after a discontinuance or reduction the Contractor shall be relieved of its scheduling and  
578 payment obligations for such quantity of Project Water.

579 (c) The United States reserves the right to all seepage and return flow water

580 derived from water delivered to the Contractor hereunder that escapes or is discharged beyond the  
581 Contractor's boundaries: Provided, That this shall not be construed as claiming for the United States any  
582 right to seepage or return flow being put to reasonable and beneficial use pursuant to this Contract  
583 within the Contractor's boundaries by the Contractor or those claiming by, through, or under the  
584 Contractor.

585 WATER SHORTAGE AND APPORTIONMENT

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

591  
592 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting or  
593 other similar operational errors affecting the Project; drought and other physical or natural causes  
594 beyond the control of the Contracting Officer; or actions taken by the Contracting Officer to meet  
595 current and future legal obligations, then, except as provided in subdivision (a) of Article 17, no liability  
596 shall accrue against the United States or any of its officers, agents, or employees for any damage, direct  
597 or indirect, arising therefrom.

598  
599 (c) In any Year in which there may occur a Condition of Shortage for any of the  
600 reasons specified in subdivision (b) of this Article, the Contracting Officer shall apportion the  
601 available Project Water supply among the Contractor and others entitled, under existing contracts and  
602 future contracts (to the extent such future contracts are permitted under subsections (a) and (b) of  
603 Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the  
604 contractual obligations of the United States.

605 UNAVOIDABLE GROUNDWATER PERCOLATION

606 13. Omitted

607

608

RULES, REGULATIONS, AND DETERMINATIONS

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

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

616

PROTECTION OF WATER AND AIR QUALITY

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

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

629

WATER ACQUIRED BY THE CONTRACTOR OTHER THAN  
630 FROM THE UNITED STATES

631           16.    Water or water rights now owned, or hereafter acquired by the Contractor, other than  
632 from the United States, may be simultaneously transported through the same distribution facilities of the  
633 Contractor.

634

OPINIONS AND DETERMINATIONS

635           17.    Where the terms of this Contract provide for actions to be based upon the opinion or  
636 determination of either party to this Contract, said terms shall not be construed as permitting such action  
637 to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties,  
638 notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and  
639 appropriate adjustment, including monetary damages, for any such arbitrary, capricious, or unreasonable

640 opinion or determination. Each opinion or determination by either party shall be provided in a timely  
641 manner.

642 CHARGES FOR DELINQUENT PAYMENTS

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

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

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

659 EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

675 (c) The Contractor will not discharge or in any other manner discriminate against any  
676 employee or applicant for employment because such employee or applicant has inquired about,

677 discussed, or disclosed the compensation of the employee or applicant or another employee or applicant.  
678 This provision shall not apply to instances in which an employee who has access to the compensation  
679 information of other employees or applicant as part of such employee's essential job functions discloses  
680 the compensation of such other employees or applicants to individuals who do not otherwise have access  
681 to such information unless such disclosure is in response to a formal complaint or charge, in furtherance  
682 of an investigation, proceeding, hearing, or action, including an investigation conducted by the  
683 employer, or is consistent with the contractor's legal duty to furnish information.

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

690 (e) The Contractor will comply with all provisions of Executive Order 11246 of Sept.  
691 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

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

697 (g) In the event of the Contractor's noncompliance with the nondiscrimination  
698 clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled,  
699 terminated or suspended in whole or in part and the Contractor may be declared ineligible for further  
700 Government contracts in accordance with procedures authorized in Executive Order No. 11246 of Sept.  
701 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive  
702 Order No. 11246 of September 24, 1965 or by rule, regulation, or order of the Secretary of Labor, or as  
703 otherwise provided by law.

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

713 OBLIGATION TO PAY—BENEFITS  
714 CONDITIONED UPON PAYMENT

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

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

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

725 COMPLIANCE WITH CIVIL RIGHTS LAWS  
726 AND REGULATIONS

727 21. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
728 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
729 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III;  
730 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42  
731 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the applicable  
732 implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or  
733 Bureau of Reclamation.

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

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

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

749 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

750 22. In addition to all other payments to be made by the Contractor pursuant to this Contract,  
751 the Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed  
752 statement submitted by the Contracting Officer to the Contractor for such specific items of direct cost

753 incurred by the United States for work requested by the Contractor associated with this Contract plus  
754 a percentage of such direct costs for administrative and general overhead in accordance with applicable  
755 Bureau of Reclamation policy and procedures. All such amounts referred to in this Article shall not  
756 exceed the amount agreed to in writing in advance by the Contractor. This Article shall not apply to  
757 costs for routine contract administration.

758 WATER CONSERVATION

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

763 Additionally, an effective water conservation and efficiency program shall be based on  
764 the Contractor's water conservation plan that has been determined by the Contracting Officer to meet the  
765 conservation and efficiency criteria for evaluating water conservation plans established under Federal  
766 law. In the event the Contractor's water conservation plan has not yet been determined by the  
767 Contracting Officer to meet such criteria, due to circumstances that the Contracting Officer determines  
768 are beyond the control of the Contractor, Project Water deliveries shall be made under this Contract so  
769 long as the Contractor diligently works with the Contracting Officer to obtain such determination at the  
770 earliest practicable date, and thereafter the Contractor immediately begins implementing its water  
771 conservation program in accordance with the time schedules therein. The water conservation program  
772 shall contain definite water conservation objectives, appropriate economically feasible water  
773 conservation measures, and time schedules for meeting those objectives.

774 (b) Should the amount of M&I water delivered pursuant to subdivision (a) of  
775 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement  
776 the Best Management Practices identified by the time frames issued by the Mid-Pacific Region's  
777 then-existing conservation and efficiency criteria for such M&I Water, unless any such practice is

778 determined by the Contracting Officer to be inappropriate for the Contractor.

779 (c) The Contractor shall submit to the Contracting Officer by December 31, of each  
780 Calendar Year, an annual report on the status of its implementation of the water conservation program.

781 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

782 24. (a) Except as specifically provided in Articles 5 and 16 of this Contract, the  
783 provisions of this Contract shall not be applicable to or affect water or water rights now owned or  
784 hereafter acquired by the Contractor or any user of such water within the Contract Use Area from other  
785 than the United States. Any such water shall not be considered Project Water under this Contract. In  
786 addition, this Contract shall not be construed as limiting or curtailing any rights that the Contractor or  
787 any water user within the Contract Use Area acquires or has available under any other contract  
788 pursuant to Federal Reclamation law.

789 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

790 25. (a) The operation and/or maintenance of all or any portion or portions of the Project  
791 facilities may be transferred to the Operating-Non-Federal Entity by separate agreement between the  
792 United States and the Operating Non-Federal Entity. Any such separate agreements shall not interfere  
793 with the rights or obligations of the Contractor or the United States hereunder.

794 (b) If so notified in writing by the Contracting Officer, the Contractor shall pay  
795 directly to such Operating Non-Federal Entity in accordance with such notice its allocated share of all  
796 charges for the operation and maintenance of the American River Division facilities operated and/or  
797 maintained by the Operating Non-Federal Entity, all in compliance with all provisions of Article 7  
798 hereof: Provided, That this shall not relieve the Contractor of its obligation to pay directly to the  
799 United States for its allocated share of the Project construction costs and its allocated share of the  
800 remaining operation and maintenance costs for the Project.

801 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

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

807 BOOKS, RECORDS, AND REPORTS

808 27. The Contractor shall establish and maintain accounts and other books and records  
809 pertaining to administration of the terms and conditions of this Contract, including the Contractor's  
810 financial transactions; water supply data; project operation, maintenance, and replacement logs; project  
811 land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-  
812 leasing, and water-use data; and other matters that the Contracting Officer may require. Reports shall be  
813 furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer  
814 may require. Subject to applicable Federal laws and regulations, each party to this Contract shall have  
815 the right during office hours to examine and make copies of the other party's books and records relating  
816 to matters covered by this Contract.

817 ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

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

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

824 SEVERABILITY

825 29. In the event that an action is brought in a court of competent jurisdiction by a person  
826 or entity other than the Contractor challenging the legality or enforceability of a provision included  
827 in this Contract and a final court decision is issued holding that such provision is legally invalid or  
828 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the  
829 parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of such final  
830 court decision identify by mutual agreement the provisions in this Contract that must be revised; and (ii)  
831 within three (3) months thereafter promptly agree on the appropriate revision(s). The time periods

832 specified above may be extended by mutual agreement of the parties. Pending the completion of the  
833 actions designated above, to the extent it can do so without violating any applicable provisions of law,  
834 the United States shall continue to make the quantities of Project Water specified in this Contract  
835 available to the Contractor pursuant to the provisions of this Contract that were not found to be legally  
836 invalid or unenforceable in the final court decision.

837 OFFICIALS NOT TO BENEFIT

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

841 CHANGES IN CONTRACTOR'S SERVICE AREA OR ORGANIZATION

842 31. While this Contract is in effect, no change may be made in the Contractor's Service Area  
843 or organization, by inclusion or exclusion of lands or by any other changes which may affect the  
844 respective rights, obligations, privileges, and duties of either the United States or the Contractor under  
845 this Contract including, but not limited to, dissolution, consolidation, or merger, except upon the  
846 Contracting Officer's written consent.

847 NOTICES

848 32. Any notice, demand, or request authorized or required by this Contract shall be deemed  
849 to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area  
850 Manager, Central California Area Office, Bureau of Reclamation, 7794 Folsom Dam Rd., Folsom, CA  
851 95630-1799 and on behalf of the United States, when mailed, postage prepaid, or delivered to the Chief,  
852 Water Supply Division, Sacramento County Department of Water Resources, 827 7<sup>th</sup> Street, Room 301,  
853 Sacramento, California, 95814. The designation of the addressee or the address may be changed by  
854 notice given in the same manner as provided in this article for other notices.

855 CERTIFICATION OF NONSEGREGATED FACILITIES

856  
857 33. Omitted

858 MEDIUM FOR TRANSMITTING PAYMENTS

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

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

866 CONTRACT DRAFTING CONSIDERATIONS

867 35. This amended Contract has been negotiated and reviewed by the parties hereto, each of  
868 whom is sophisticated in the matters to which this amended Contract pertains. The double-spaced Articles  
869 of this amended Contract have been drafted, negotiated, and reviewed by the parties, and no one party  
870 shall be considered to have drafted the stated articles. Single-spaced articles are standard articles pursuant  
871 to Reclamation policy.

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CONFIRMATION OF CONTRACT

874

875 36. Omitted

876



908 By: \_\_\_\_\_  
909 Deputy County Counsel  
910  
911 (I:Sacol 18.wpd)

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913  
914

EXHIBIT A

Water Rates and Charges

915  
916  
917  
918

EXHIBIT B  
CONTRACT USE AREA  
(PLACEHOLDER)