



United States Department of the Interior

BUREAU OF RECLAMATION
2800 Cottage Way
Sacramento, California 95825-1898



IN REPLY REFER TO:

CGB-440
2.2.4.23

Board of Directors
The West Side Irrigation District
P.O. Box 177
Tracy, CA 95378

Subject: Water Infrastructure Improvements for the Nation Act Contract No. 7-07-20-W0045-LTR1-P Between the United States and The West Side Irrigation District Providing for Project Water Service – Central Valley Project, California

Dear Board of Directors:

Enclosed is an executed original of the subject contract for your records. The Bureau of Reclamation appreciates the effort expended by The West Side Irrigation District and its representatives relative to this contract.

The exhibit titled, “Repayment Obligation – Current Calculation Under the WIIN Act, Section 4011 (a) (2)”, for the Contract Amendment will be finalized on the Effective Date of the Contract Amendment, in accordance with the Water Infrastructure Improvements for the Nation Act of 2016 (Public Law 114-322).

If there are any questions, please contact Mr. Stanley Data, Repayment Specialist, at 916-978-5246, or sdata@usbr.gov.

Sincerely,

Sheri A. Looper
Deputy Regional Resources Manager

Enclosure

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

CONTRACT BETWEEN THE UNITED STATES
AND
THE WEST SIDE IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM DELTA DIVISION AND FACILITIES REPAYMENT

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

CONTRACT BETWEEN THE UNITED STATES
AND
THE WEST SIDE IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM DELTA DIVISION AND FACILITIES REPAYMENT

1 THIS CONTRACT, made this 20th day of October, 2020, in
2 pursuance generally of the Act of June 17, 1902, (32 Stat. 388), and acts amendatory thereof or
3 supplementary thereto, including but not limited to, the Acts of August 26, 1937 (50 Stat. 844),
4 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
5 July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263),
6 October 27, 1986 (100 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992
7 (106 Stat. 4706), as amended, and the Water Infrastructure Improvements for the Nation Act
8 (Public Law (Pub. L.) 114-322, 130 Stat. 1628), Section 4011 (a-d) and (f) (“WIIN Act”), all
9 collectively hereinafter referred to as Federal Reclamation law, between the UNITED STATES
10 OF AMERICA, hereinafter referred to as the United States, represented by the officer executing
11 this Contract, hereinafter referred to as the Contracting Officer, and THE WEST SIDE
12 IRRIGATION DISTRICT, hereinafter referred to as the Contractor, a public agency of the State
13 of California, duly organized, existing, and acting pursuant to the laws thereof;

14 WITNESSETH, That:

EXPLANATORY RECITALS

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

[2nd] WHEREAS, the United States constructed the Delta-Mendota Canal and related facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

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

[4th] WHEREAS, the United States and the Contractor entered into Contract No. 7-07-20-W0045, as amended, which established terms for the delivery to the Contractor of Project Water from the Delta Division facilities from June 29, 1977, through February 28, 1995; and

[5th] WHEREAS, the United States and the Contractor have pursuant to Subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into interim renewal contract(s) identified as Contract No. 7-07-20-W0045-IR1 and subsequent Interim Renewal Contracts 7-07-20-W0045-IR2 through 7-07-20-W0045-IR8, which provided for water service to the Contractor from March 1, 1995 through February 28, 2006; and

36 [6th] WHEREAS, the United States and the Contractor entered into a long-term
37 contract identified as Contract No. 7-07-20-W0045-LTR1, hereinafter referred to as the Existing
38 Contract, which provided for the continued water service to the Contractor following expiration
39 of Contract No. 7-07-20-W0045-IR8, and which was in effect the date the WIIN Act was
40 enacted; and

41 [7th] WHEREAS, pursuant to a June 5, 2001, "Agreement for Assignment of
42 Entitlement to CVP Water Between the City of Tracy and The West Side Irrigation District," the
43 Contractor assigned to the City of Tracy 2,500 acre feet of the Contractor's entitlement to Project
44 Water under Contract No. 7-07-20-W0045-IR7, which assignment is reflected in the decreased
45 quantity of Water Made Available under subdivision (a) of Article 3 of this Contract; and

46 [8th] WHEREAS, on February 27, 2004, the Contractor, the United States and
47 the City of Tracy entered into an Agreement for Assignment of Portion of Water Service
48 Contract ("Assignment Agreement"), wherein the United States approved the initial assignment
49 of 2,500 acre-feet of water and the future assignment of an additional 2,500 acre-feet of Project
50 Water available to the Contractor under Contract No. 7-07-20-W0045, as then being
51 implemented through Contract No. 7-07-20-W0045-B, to the City of Tracy; and

52 [9th] WHEREAS, the Existing Contract reflects completion of the initial
53 assignment referenced in 7th recital above, by reducing the quantity of Project Water available to
54 the Contractor from 7,500 to 5,000 acre feet; and

55 [10th] WHEREAS, the Assignment Agreement also allows the City of Tracy to
56 exercises its right to obtain a future assignment of an additional 2,500 acre-feet of Project Water
57 available to the Contractor under the Existing Contract; and

58 [11th] WHEREAS, on December 16, 2016, the 114th Congress of the United
59 States of America enacted the WIIN Act; and

60 [12th] WHEREAS, Section 4011(a)(1) provides that “upon request of the
61 contractor, the Secretary of the Interior shall convert any water service contract in effect on the
62 date of enactment of this subtitle and between the United States and a water users’ association
63 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under
64 mutually agreeable terms and conditions.”; and

65 [13th] WHEREAS, 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
67 entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under
68 this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat.
69 1195)”; and “(B) Water service contracts that were entered under subsection (c)(2) of section 9
70 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be
71 converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

72 [14th] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered
73 into pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service,
74 repayment, exchange and transfer contractual rights between the water users’ association
75 [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the
76 water users’ association [Contractor] and their landowners as provided under State law.”; and

77 [15th] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that
78 “implementation of the provisions of this subtitle shall not alter... (3) the priority of a water
79 service or repayment contractor to receive water; or (4) except as expressly provided in this

80 section, any obligations under the Federal Reclamation law, including the continuation of
81 Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and
82 repayment contractors making prepayments pursuant to this section.”; and

83 [16th] WHEREAS, upon the request of the Contractor, the WIIN Act directs the
84 Secretary to convert irrigation water service contracts and municipal and industrial (M&I) water
85 service contracts into repayment contracts, amend existing repayment contracts, and allow
86 contractors to prepay their construction cost obligations pursuant to applicable Federal
87 Reclamation law; and

88 [17th] WHEREAS, the United States has determined that the Contractor has
89 fulfilled all of its obligations under the Existing Contract; and

90 [18th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
91 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
92 reasonable and beneficial use and/or has demonstrated future demand for water use such that the
93 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the
94 quantity of Project Water to be made available to it pursuant to this Contract; and

95 [19th] WHEREAS, water obtained from the Project has been relied upon by
96 urban and agricultural areas within California for more than 50 years, and is considered by the
97 Contractor as an essential portion of its water supply; and

98 [20th] WHEREAS, the economies of regions within the Project, including the
99 Contractor’s, depend upon the continued availability of water, including water service from the
100 Project; and

101 [21st] WHEREAS, the Secretary intends through coordination, cooperation, and
102 partnerships to pursue measures to improve water supply, water quality, and reliability of the
103 Project for all Project purposes; and

104 [22nd] WHEREAS, the mutual goals of the United States and the Contractor
105 include: to provide for reliable Project Water supplies; to control costs of those supplies; to
106 achieve repayment of the Project as required by law; to guard reasonably against Project Water
107 shortages; to achieve a reasonable balance among competing demands for use of Project Water;
108 and to comply with all applicable environmental statutes, all consistent with the legal obligations
109 of the United States relative to the Project; and

110 [23rd] WHEREAS, the parties intend by this Contract to maintain a cooperative
111 relationship in order to achieve their mutual goals; and

112 [24th] WHEREAS, the Contractor has utilized or may utilize transfers, contract
113 assignments, rescheduling, and conveyance of Project Water and non-Project water under this
114 Contract as tools to minimize the impacts of a Condition of Shortage and to maximize the
115 beneficial use of water; and

116 [25th] WHEREAS, the parties desire and intend that this Contract not provide a
117 disincentive to the Contractor in continuing to carry out the beneficial activities set out in the
118 Explanatory Recital immediately above; and

119 [26th] WHEREAS, the Contracting Officer and the Contractor agree that this
120 Contract complies with Section 4011 of the WIIN Act; and

121 [27th] WHEREAS, the Contracting Officer and the Contractor agree to amend
122 and convert the Existing Contract pursuant to Section 4011 of the WIIN Act and other Federal
123 Reclamation law on the terms and conditions set forth below.

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

126 DEFINITIONS

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

129 (a) "Additional Capital Obligation" shall mean construction costs or other
130 capitalized costs incurred after the Effective Date or not reflected in the Existing Capital
131 Obligation as defined herein and in accordance with Section 4011, subsection (a)(2)(B) and
132 (a)(3)(B) of the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130
133 Stat. 1628) ("WIIN Act");

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

136 (c) "Charges" shall mean the payments required by Federal Reclamation law
137 in addition to the Rates and Tiered Pricing Component specified in this Contract as determined
138 annually by the Contracting Officer pursuant to this Contract;

139 (d) "Condition of Shortage" shall mean a condition respecting the Project
140 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the
141 Contract Total;

142 (e) "Contracting Officer" shall mean the Secretary of the Interior's duly
143 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law
144 or regulation;

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

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

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

153 (i) "Delta Division Facilities" shall mean those existing and future Project
154 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to,
155 the C.W. "Bill" Jones Pumping Plant, the O'Neill Forebay, the O'Neill Pumping/Generating
156 Plant, and the San Luis Reservoir, used to divert, store, and convey water to those Project
157 Contractors entitled to receive water conveyed through the Delta-Mendota Canal;

158 (j) "Eligible Lands" shall mean all lands to which Irrigation Water may be
159 delivered in accordance with Section 204 of the Reclamation Reform Act of 1982 (96 Stat.
160 1263), as amended;

161 (k) "Excess Lands" shall mean all lands in excess of the limitations contained
162 in Section 204 of the Reclamation Reform Act of 1982, other than those lands exempt from
163 acreage limitation under Federal Reclamation law;

164 (l) "Existing Capital Obligation" shall mean the remaining amount of
165 construction costs or other capitalized costs allocable to the Contractor as described in Section
166 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central
167 Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively,
168 in the Final 2020 Ratebooks, as adjusted to reflect payments not reflected in such schedule. The
169 Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in
170 Exhibit "C", which is incorporated herein by reference;

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

181 (n) "Ineligible Lands" shall mean all lands to which Irrigation Water may not
182 be delivered in accordance with Section 204 of the Reclamation Reform Act of 1982;

183 (o) "Irrigation Full Cost Water Rate" shall mean the Full Cost Rate applicable
184 to the delivery of Irrigation Water;

185 (p) "Irrigation Water" shall mean the use of Project Water to irrigate lands
186 primarily for the production of commercial agricultural crops or livestock, and domestic and
187 other uses that are incidental thereto;

188 (q) "Landholder" shall mean a party that directly or indirectly owns or leases
189 nonexempt land, as provided in 43 CFR 426.2;

190 (r) "Municipal and Industrial (M&I) Water" shall mean the use of Project
191 Water for municipal, industrial, and miscellaneous other purposes not falling under the definition
192 of "Irrigation Water" or within another category of water use under an applicable Federal
193 authority;

194 (s) "M&I Full Cost Water Rate" shall mean the Full Cost Rate applicable to
195 the delivery of M&I Water;

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

199 (u) "Operating Non-Federal Entity" shall mean the entity(ies), its (their)
200 successors or assigns, which has (have) the obligation to operate and maintain all or a portion of
201 the Delta Division Facilities pursuant to written agreement(s) with the United States. When this
202 Contract was entered into, the Operating Non-Federal Entity was the San Luis & Delta-Mendota
203 Water Authority;

204 (v) "Project" shall mean the Central Valley Project owned by the United
205 States and managed by the Department of the Interior, Bureau of Reclamation;

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

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

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

215 (z) "Recent Historic Average" shall mean the most recent five (5)-year
216 average of the final forecast of Water Made Available to the Contractor pursuant to this Contract
217 or its preceding contract(s);

218 (aa) "Repayment Obligation" for Water Delivered as Irrigation Water shall
219 mean the Existing Capital Obligation discounted by $\frac{1}{2}$ of the Treasury rate, which shall be the
220 amount due and payable to the United States, pursuant to Section 4011(a)(2)(A) of the WIIN
221 Act; and for Water Delivered as M&I Water shall mean the amount due and payable to the
222 United States, pursuant to Section 4011(a)(3)(A) of the WIIN Act;

223 (bb) "Secretary" shall mean the Secretary of the Interior, a duly appointed
224 successor, or an authorized representative acting pursuant to any authority of the Secretary and
225 through any agency of the Department of the Interior;

226 (cc) "Tiered Pricing Component" shall be the incremental amount to be paid
227 for each acre-foot of Water Delivered as described in Article 7 of this Contract and as provided
228 for in Exhibit "B";

229 (dd) "Water Delivered" or "Delivered Water" shall mean Project Water
230 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting
231 Officer;

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

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

238 (gg) "Year" shall mean the period from and including March 1 of each
239 Calendar Year through the last day of February of the following Calendar Year.

240 TERM OF CONTRACT – RIGHT TO USE OF WATER

241 2. (a) This Contract shall be effective November 1, 2020, hereinafter known as
242 the "Effective Date", and shall continue so long as the Contractor pays applicable Rates and
243 Charges under this Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939
244 (53 Stat. 1195) as applicable, and applicable law;

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

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

251 (2) Provided, further, That the Contracting Officer shall not seek to
252 suspend making water available or declaring Water Made Available pursuant to this Contract for
253 non-compliance by the Contractor with the terms of this Contract or Federal law, unless the
254 Contracting Officer has first provided at least thirty (30) calendar days written notice to the
255 Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence
256 curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully
257 cured within the thirty (30) calendar days' notice period. If the Contracting Officer has
258 suspended making water available pursuant to this paragraph, upon cure of such non-compliance
259 satisfactory to the to the Contracting Officer, the Contracting Officer shall resume making water
260 available and declaring Water Made Available pursuant to this Contract;

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

263 (b) Upon complete payment of the Repayment Obligation by the Contractor,
264 and notwithstanding any Additional Capital Obligation that may later be established, the acreage
265 limitations, reporting, and full cost pricing provisions of the Reclamation Reform Act of 1982,
266 and subdivisions (j) Eligible Lands, (k) Excess Lands, and (n) Ineligible Lands, of Article 1 of
267 this Contract shall no longer be applicable.

268 (c) Notwithstanding any provision of this Contract, the Contractor reserves
269 and shall have all rights and benefits under the Act of July 2, 1956 (70 Stat. 483), to the extent
270 allowed by law.

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

274 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

275 3. (a) During each Year, consistent with all applicable State water rights permits,
276 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this
277 Contract, the Contracting Officer shall make available for delivery to the Contractor 5,000 acre-
278 feet of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in
279 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of
280 Articles 4 and 7 of this Contract.

281 (b) Because the capacity of the Project to deliver Project Water has been
282 constrained in recent years and may be constrained in the future due to many factors including
283 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
284 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this
285 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the
286 programmatic environmental impact statement prepared pursuant to Section 3404(c) of the
287 CVPIA projected that the Contract Total set forth in this Contract will not be available to the
288 Contractor in many years. During the most recent five years prior to execution of the Existing
289 Contract, the Recent Historic Average Water Made Available to the Contractor was 3,290 acre-
290 feet. Nothing in this subdivision (b) of this Article shall affect the rights and obligations of the
291 parties under any provision of this Contract.

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

294 (1) In the event any Project Contractor (other than a Cross Valley
295 Contractor) that receives Project Water through the Delta Division Facilities obtains a
296 contractual agreement that the Contracting Officer shall make Project Water available at a point
297 or points of delivery in or north of the Delta, at the request of the Contractor and upon
298 completion of any required environmental documentation, this Contract shall be amended to
299 provide for deliveries in or north of the Delta on mutually agreeable terms. Such amendments to
300 this Contract shall be limited solely to those changes made necessary by the addition of such
301 alternate points of delivery in or north of the Delta; *Provided, That* the Contracting Officer's use
302 of the Harvey O. Banks Pumping Plant to deliver Project Water does not trigger this right of
303 amendment.

304 (d) The Contractor shall make reasonable and beneficial use of all water
305 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu),
306 groundwater banking programs, surface water storage programs, and other similar programs
307 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
308 Contractor's Service Area which are consistent with applicable State law and result in use
309 consistent with Federal Reclamation law will be allowed; *Provided, That* any direct recharge
310 program(s) is (are) described in the Contractor's water conservation plan submitted pursuant to
311 Article 25 of this Contract; *Provided, further, That* such water conservation plan demonstrates
312 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average,
313 the quantity of Delivered Water is demonstrated to be reasonable for such uses and in

314 compliance with Federal Reclamation law. Groundwater recharge programs, groundwater
315 banking programs, surface water storage programs, and other similar programs utilizing Project
316 Water or other water furnished pursuant to this Contract conducted outside the Contractor's
317 Service Area may be permitted upon written approval of the Contracting Officer, which approval
318 will be based upon environmental documentation, Project Water rights, and Project operational
319 concerns. The Contracting Officer will address such concerns in regulations, policies, or
320 guidelines.

321 (e) The Contractor shall comply with requirements applicable to the
322 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
323 of any water service contract between the Contracting Officer and the Contractor in effect
324 immediately prior to the Effective Date undertaken pursuant to Section 7 of the Endangered
325 Species Act of 1973 (ESA), as amended, that are within the Contractor's legal authority to
326 implement. The Existing Contract, which evidences in excess of 26 years of diversions for
327 irrigation and/or M&I purposes of the quantities of Project Water provided in subdivision (a) of
328 Article 3 of this Contract, will be considered in developing an appropriate baseline for any
329 required biological assessment(s) prepared pursuant to the ESA, and any other needed
330 environmental review. Nothing herein shall be construed to prevent the Contractor from
331 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
332 biological opinion or other environmental documentation referred to in this Article.

333 (f) Following the declaration of Water Made Available under Article 4 of this
334 Contract, the Contracting Officer will make a determination whether Project Water, or other
335 water available to the Project, can be made available to the Contractor in addition to the Contract

336 Total under this Article during the Year without adversely impacting other Project Contractors.
337 At the request of the Contractor, the Contracting Officer will consult with the Contractor prior to
338 making such a determination. If the Contracting Officer determines that Project Water, or other
339 water available to the Project, can be made available to the Contractor, the Contracting Officer
340 will announce the availability of such water and shall so notify the Contractor as soon as
341 practical. The Contracting Officer will thereafter meet with the Contractor and other Project
342 Contractors capable of taking such water to determine the most equitable and efficient allocation
343 of such water. If the Contractor requests the delivery of any quantity of such water, the
344 Contracting Officer shall make such water available to the Contractor in accordance with
345 applicable statutes, regulations, guidelines, and policies. Subject to existing long-term
346 contractual commitments, water rights, and operational constraints, long-term Project
347 Contractors shall have a first right to acquire such water, including Project Water made available
348 pursuant to Section 215 of the Reclamation Reform Act of 1982.

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

356 (h) The Contractor’s right pursuant to Federal Reclamation law and applicable
357 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract

358 shall not be disturbed, and this Contract shall continue so long as the Contractor pays applicable
359 Rates and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the Act of
360 August 4, 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding
361 sentence shall affect the Contracting Officer's ability to impose shortages under Article 11 or
362 subdivision (b) of Article 12 of this Contract.

363 (i) Project Water furnished to the Contractor pursuant to this Contract may be
364 delivered for purposes other than those described in subdivisions (p) and (r) of Article 1 of this
365 Contract upon written approval by the Contracting Officer in accordance with the terms and
366 conditions of such approval.

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

375 TIME FOR DELIVERY OF WATER

376 4. (a) On or about February 20 each Calendar Year, the Contracting Officer shall
377 announce the Contracting Officer's expected declaration of the Water Made Available. Such
378 declaration will be expressed in terms of Water Made Available and the Recent Historic Average
379 and will be updated monthly, and more frequently if necessary, based on the then-current

380 operational and hydrologic conditions and a new declaration with changes, if any, to the Water
381 Made Available will be made. The Contracting Officer shall provide forecasts of Project
382 operations and the basis of the estimate, with relevant supporting information, upon the written
383 request of the Contractor. Concurrently with the declaration of the Water Made Available, the
384 Contracting Officer shall provide the Contractor with the updated Recent Historic Average.

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

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

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

400 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

401 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
402 Contract shall be delivered to the Contractor at a point or points on the Delta-Mendota Canal and
403 any additional point or points of delivery either on Project facilities or another location or
404 locations mutually agreed to in writing by the Contracting Officer and the Contractor.

405 (b) The Contracting Officer, either directly or indirectly through its written
406 agreements(s) with the Operating Non-Federal Entity(ies), shall make all reasonable efforts to
407 maintain sufficient flows and levels of water in the Project facilities to deliver Project Water to
408 the Contractor at the point or points of delivery established pursuant to subdivision (a) of this
409 Article.

410 (c) The Contractor shall deliver Irrigation Water in accordance with any
411 applicable land classification provisions of Federal Reclamation law and the associated
412 regulations. The Contractor shall not deliver Project Water to land outside the Contractor's
413 Service Area unless approved in advance by the Contracting Officer.

414 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
415 measured and recorded with equipment furnished, installed, operated, and maintained by the
416 Contracting Officer either directly or indirectly through its written agreements(s) with the
417 Operating Non-Federal Entity(ies), unless undertaken by the Contractor with the consent of the
418 Contracting Officer at the point or points of delivery established pursuant to subdivision (a) of
419 this Article. Upon the request of either party to this Contract, the Contracting Officer shall
420 investigate, or cause to be investigated by the appropriate Operating Non-Federal Entity(ies), the
421 accuracy of such measurements and shall take any necessary steps to adjust any errors appearing

422 therein. For any period of time when accurate measurements have not been made, the
423 Contracting Officer shall consult with the Contractor and the appropriate Operating Non-Federal
424 Entity(ies), if any, prior to making a final determination of the quantity delivered for that period
425 of time.

426 (e) Absent a separate contrary written agreement with the Contractor, neither
427 the Contracting Officer nor any Operating Non-Federal Entity(ies) shall be responsible for the
428 control, carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor
429 pursuant to this Contract beyond the point or points of delivery established pursuant to
430 subdivision (a) of this Article. The Contractor shall indemnify the United States, its officers,
431 employees, agents, and assigns on account of damage or claim of damage of any nature
432 whatsoever for which there is legal responsibility, including property damage, personal injury, or
433 death arising out of or connected with the control, carriage, handling, use, disposal, or
434 distribution of such Water Delivered beyond such point or points of delivery except for any
435 damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its
436 officers, employees, agents, and assigns, including the Operating Non-Federal Entity(ies) with
437 the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the
438 Contracting Officer or any of its officers, employees, agents, and assigns, including the
439 Operating Non-Federal Entity(ies); (iii) negligence of the Contracting Officer or any of its
440 officers, employees, agents, and assigns, including the Operating Non-Federal Entity(ies); or (iv)
441 a malfunction of facilities owned and/or operated by the United States or the Operating Non-
442 Federal Entity(ies).

443 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

444 6. (a) The Contractor has established a measuring program satisfactory to the
445 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation
446 purposes within the Contractor's Service Area is measured at each agricultural turnout and such
447 water delivered for M&I purposes is measured at each M&I service connection. The water
448 measuring devices or water measuring methods of comparable effectiveness must be acceptable
449 to the Contracting Officer. The Contractor shall be responsible for installing, operating,
450 maintaining, and repairing all such measuring devices and implementing all such water
451 measuring methods at no cost to the United States. The Contractor shall use the information
452 obtained from such water measuring devices or water measuring methods to ensure its proper
453 management of the water; to bill water users for water delivered by the Contractor; and, if
454 applicable, to record water delivered for M&I purposes by customer class as defined in the
455 Contractor's water conservation plan provided for in Article 25 of this Contract. Nothing herein
456 contained, however, shall preclude the Contractor from establishing and collecting any charges,
457 assessments, or other revenues authorized by California law. The Contractor shall include a
458 summary of all its annual surface water deliveries in the annual report described in subdivision
459 (c) of Article 25 of this Contract.

460 (b) To the extent the information has not otherwise been provided, upon
461 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
462 report describing the measurement devices or water measuring methods being used or to be used
463 to implement subdivision (a) of this Article and identifying the agricultural turnouts and the M&I
464 service connections or alternative measurement programs approved by the Contracting Officer,

465 at which such measurement devices or water measuring methods are being used, and, if
466 applicable, identifying the locations at which such devices and/or methods are not yet being used
467 including a time schedule for implementation at such locations. The Contracting Officer shall
468 advise the Contractor in writing within 60 days as to the adequacy and necessary modifications,
469 if any, of the measuring devices or water measuring methods identified in the Contractor's report
470 and if the Contracting Officer does not respond in such time, they shall be deemed adequate. If
471 the Contracting Officer notifies the Contractor that the measuring devices or methods are
472 inadequate, the parties shall within 60 days following the Contracting Officer's response,
473 negotiate in good faith the earliest practicable date by which the Contractor shall modify said
474 measuring devices and/or measuring methods as required by the Contracting Officer to ensure
475 compliance with subdivision (a) of this Article.

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

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

482 (e) The Contractor shall inform the Contracting Officer and the Operating
483 Non-Federal Entity(ies) on or before the 20th calendar day of each month of the quantity of
484 Irrigation Water and M&I Water taken during the preceding month.

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

487 7. (a) Notwithstanding the Contractor's full prepayment of the Repayment
488 Obligation pursuant to Section 4011, subsection (a)(2)(A) and subsection (a)(3)(A) of the WIIN
489 Act, as set forth in Exhibit "C", and any payments required pursuant to Section 4011, subsection
490 (b) of the WIIN Act, to reflect the adjustment for the final cost allocation as described in this
491 Article, subsection (b), the Contractor's Project construction and other obligations shall be
492 determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted
493 in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the
494 WIIN Act; and such ratesetting policies shall be amended, modified, or superseded only through
495 a public notice and comment procedure; (ii) applicable Federal Reclamation law and associated
496 rules and regulations, or policies, and (iii) other applicable provisions of this Contract. Payments
497 shall be made by cash transaction, electronic funds transfers, or any other mechanism as may be
498 agreed to in writing by the Contractor and the Contracting Officer. The Rates, Charges, and
499 Tiered Pricing Component applicable to the Contractor upon execution of this Contract are set
500 forth in Exhibit "B", as may be revised annually.

501 (1) The Contractor shall pay the United States as provided for in this
502 Article of this Contract for all Delivered Water at Rates, Charges, and Tiered Pricing Component
503 in accordance with policies for Irrigation Water and M&I Water. The Contractor's Rates shall
504 be established to recover its estimated reimbursable costs included in the operation and

505 maintenance component of the Rate and amounts established to recover deficits and other
506 charges, if any, including construction costs as identified in the following subdivisions.

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

509 (A) The amount due and payable to the United States, pursuant
510 to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been
511 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth
512 as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual
513 installments (Irrigation Only) to be repaid no later than three (3) years after the Effective Date as
514 set forth in Exhibit "C". The Repayment Obligation is due in lump sum by December 30, 2020
515 as provided by the WIIN Act. The Contractor must provide appropriate notice to the Contracting
516 Officer in writing no later than thirty (30) days prior to the Effective Date if electing to repay the
517 amount due using the lump sum alternative. If such notice is not provided by such date, the
518 Contractor shall be deemed to have elected the installment payment alternative, in which case,
519 the first such payment shall be made no later than December 30, 2020. The second payment
520 shall be made no later than the first anniversary of the first payment date. The third payment
521 shall be made no later than the second anniversary of the first payment date. The final payment
522 shall be made no later than November 1, 2023. If the installment payment option is elected by
523 the Contractor, the Contractor may pre-pay the remaining portion of the Repayment Obligation
524 by giving the Contracting Officer sixty (60) days written notice, in which case, the Contracting
525 Officer shall re-compute the remaining amount due to reflect the pre-payment using the same
526 methodology as was used to compute the initial annual installment payment amount, which is

527 illustrated in Exhibit “C”. Notwithstanding any Additional Capital Obligation that may later be
528 established, receipt of the Contractor’s payment of the Repayment Obligation to the United
529 States shall fully and permanently satisfy the Existing Capital Obligation.

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

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

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

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

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

566 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
567 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
568 period October 1, of the current Calendar Year, through September 30, of the following Calendar
569 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months

570 to review and comment on such estimates. On or before September 15 of each Calendar Year,
571 the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during
572 the period October 1 of the current Calendar Year, through September 30, of the following
573 Calendar Year, and such notification shall revise Exhibit "B."

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

581 (d) At the time the Contractor submits the initial schedule for the delivery of
582 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
583 Contractor shall make an advance payment to the United States equal to the total amount payable
584 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
585 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
586 Year. Before the end of the first month and before the end of each calendar month thereafter, the
587 Contractor shall make an advance payment to the United States, at the Rate(s) set under
588 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
589 during the second month immediately following. Adjustments between advance payments for
590 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of
591 the following month; Provided, That any revised schedule submitted by the Contractor pursuant

592 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
593 Contract during any month shall be accompanied with appropriate advance payment, at the Rates
594 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
595 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
596 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
597 additional Project Water shall be delivered to the Contractor unless and until an advance
598 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
599 between the advance payments for the Water Scheduled and payments for the quantities of Water
600 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
601 later than April 30th of the following Year, or 60 days after the delivery of Project Water
602 rescheduled under subdivision (g) of Article 3 of this Contract if such water is not delivered by
603 the last day of February.

604 (e) The Contractor shall also make a payment in addition to the Rate(s) in
605 subdivision (d) of this Article to the United States for Water Delivered, at the Charges and the
606 appropriate Tiered Pricing Component then in effect, before the end of the month following the
607 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered
608 Pricing Component pursuant to subdivision (k)(2) of this Article. The payments shall be
609 consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the
610 water delivery report for the subject month prepared by the Operating Non-Federal Entity or, if
611 there is no Operating Non-Federal Entity, by the Contracting Officer. The water delivery report
612 shall be deemed a bill for the payment of Charges and the applicable Tiered Pricing Component
613 for Water Delivered. Adjustment for overpayment or underpayment of Charges shall be made

614 through the adjustment of payments due to the United States for Charges for the next month.

615 Any amount to be paid for past due payment of Charges and the Tiered Pricing Component shall
616 be computed pursuant to Article 19 of this Contract.

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

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

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

629 (i) The Contracting Officer shall keep its accounts pertaining to the
630 administration of the financial terms and conditions of its long-term contracts, in accordance
631 with applicable Federal standards, so as to reflect the application of Project costs and revenues.
632 The Contracting Officer shall, each Year upon request of the Contractor, provide to the
633 Contractor a detailed accounting of all Project and Contractor expense allocations, the
634 disposition of all Project and Contractor revenues, and a summary of all water delivery
635 information. The Contracting Officer and the Contractor shall enter into good faith negotiations

636 to resolve any discrepancies or disputes relating to accountings, reports, or information.

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

644 (k) (1) Beginning at such time as deliveries of Project Water in a Year
645 exceed 80 percent of the Contract Total, then before the end of the month following the month of
646 delivery the Contractor shall make an additional payment to the United States equal to the
647 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
648 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
649 Contract Total, shall equal one-half of the difference between the Rate established under
650 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water
651 Rate, whichever is applicable. The Tiered Pricing Component for the amount of Water
652 Delivered which exceeds 90 percent of the Contract Total shall equal the difference between (i)
653 the Rate established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water
654 Rate or M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to
655 subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract
656 Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in
657 the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.

658 (2) Subject to the Contracting Officer's written approval, the
659 Contractor may request and receive an exemption from such Tiered Pricing Component for
660 Project Water delivered to produce a crop which the Contracting Officer determines will provide
661 significant and quantifiable habitat values for waterfowl in fields where the water is used and the
662 crops are produced; Provided, That the exemption from the Tiered Pricing Component for
663 Irrigation Water shall apply only if such habitat values can be assured consistent with the
664 purposes of the CVPIA through binding agreements executed with or approved by the
665 Contracting Officer prior to use of such water.

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

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

679 (m) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the

680 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates,
681 in accordance with the applicable Project ratesetting policy, adjusted upward or downward to
682 reflect the changed costs, if any, incurred by the Contracting Officer in the delivery of the
683 transferred Project Water to the transferee's point of delivery. If the Contractor is receiving
684 lower Rates and Charges because of inability to pay and is transferring Project Water to another
685 entity whose Rates and Charges are not adjusted due to inability to pay, the Rates and Charges
686 for transferred Project Water shall not be adjusted to reflect the Contractor's inability to pay.

687 (n) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting
688 Officer is authorized to adjust determinations of ability to pay every five years.

689 (o) With respect to the Rates for M&I Water, the Contractor asserts that it is
690 not legally obligated to pay any Project deficits claimed by the United States to have accrued as
691 of the date of this Contract or deficit-related interest charges thereon. By entering into this
692 Contract, the Contractor does not waive any legal rights or remedies that it may have with
693 respect to such disputed issues. Notwithstanding the execution of this Contract and payments
694 made hereunder, the Contractor may challenge in the appropriate administrative or judicial
695 forums; (1) the existence, computation, or imposition of any deficit charges accruing during the
696 term of the Existing Contract and any preceding interim renewal contracts, if applicable; (2)
697 interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in
698 the Rates; (4) the application by the United States of payments made by the Contractor under its
699 Existing Contract and any preceding interim renewal contracts if applicable; and (5) the
700 application of such payments in the Rates. The Contracting Officer agrees that the Contractor
701 shall be entitled to the benefit of any administrative or judicial ruling in favor of any Project

702 M&I contractor on any of these issues, and credits for payments heretofore made, provided that
703 the basis for such ruling is applicable to the Contractor.

704 NON-INTEREST BEARING O&M DEFICITS

705 8. The Contractor and the Contracting Officer concur that, as of the Effective Date
706 the Contractor has no non-interest bearing O&M deficits and shall have no further liability
707 therefore.

708 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

720 (b) In order to facilitate efficient water management by means of water
721 transfers of the type historically carried out among Project Contractors located within the same
722 geographical area and to allow the Contractor to participate in an accelerated water transfer
723 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,

724 all necessary environmental documentation, including, but not limited to, documents prepared
725 pursuant to the NEPA and ESA, analyzing annual transfers within such geographical areas and
726 the Contracting Officer shall determine whether such transfers comply with applicable law.
727 Following the completion of the environmental documentation, such transfers addressed in such
728 documentation shall be conducted with advance notice to the Contracting Officer, but shall not
729 require prior written approval by the Contracting Officer. Such environmental documentation
730 and the Contracting Officer's compliance determination shall be reviewed every five years and
731 updated, as necessary, prior to the expiration of the then existing five (5)-year period. All
732 subsequent environmental documentation shall include an alternative to evaluate not less than the
733 quantity of Project Water historically transferred within the same geographical area.

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

745 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

758 (b) All advances for miscellaneous costs incurred for work requested by the
759 Contractor pursuant to Article 24 of this Contract shall be adjusted to reflect the actual costs
760 when the work has been completed. If the advances exceed the actual costs incurred, the
761 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
762 advances, the Contractor will be billed for the additional costs pursuant to Article 24 of this
763 Contract.

764 TEMPORARY REDUCTIONS – RETURN FLOWS

765 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the
766 requirements of Federal law, and (ii) the obligations of the United States under existing

767 contracts, or renewals thereof, providing for water deliveries from the Project, the Contracting
768 Officer shall make all reasonable efforts to optimize Project Water deliveries to the Contractor as
769 provided in this Contract.

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

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

787 CONSTRAINTS ON THE AVAILABILITY OF WATER

788 12. (a) In its operation of the Project, the Contracting Officer will use all

789 reasonable means to guard against a Condition of Shortage in the quantity of Project Water to be
790 made available to the Contractor pursuant to this Contract. In the event the Contracting Officer
791 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
792 Contractor of said determination as soon as practicable.

793 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting
794 or other similar operational errors affecting the Project; drought and other physical or natural
795 causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer
796 to meet current and future legal obligations, then, except as provided in subdivision (a) of Article
797 17 of this Contract, no liability shall accrue against the United States or any of its officers,
798 agents, or employees for any damage, direct or indirect, arising therefrom.

799 (c) In any Year in which there may occur a Condition of Shortage for any of
800 the reasons specified in subdivision (b) of this Article, and subject to subdivision (d) of this
801 Article, the Contracting Officer will first allocate the available Project Water consistent with the
802 Project M&I Water Shortage Policy as finally adopted after environmental review for
803 determining the amount of Project Water Available for delivery to the Project Contractors.
804 Subject to the foregoing allocation, in any year in which there may occur a Condition of
805 Shortage, the Contracting Officer shall then apportion Project Water among the Contractor and
806 others entitled to Project Water from Delta Division Facilities under long-term water service or
807 repayment contracts (or renewals thereof or binding commitments therefore) in force on
808 February 28, 2005, as follows:

809 (1) The Contracting Officer shall make an initial and subsequent
810 determination as necessary of the total quantity of Project Water estimated to be scheduled or
811 actually scheduled under subdivision (b) of Article 4 of this Contract and under all other interim
812 renewal, long-term water service or repayment contracts then in force for the delivery of Project
813 Water by the United States from Delta Division Facilities during the relevant Year, the quantity
814 so determined being hereinafter referred to as the scheduled total;

815 (2) A determination shall be made of the total quantity of Project
816 Water that is available for meeting the scheduled total, the quantity so determined being
817 hereinafter referred to as the available supply;

818 (3) The total quantity of Project Water estimated to be scheduled or
819 actually scheduled by the Contractor during the relevant Year, under subdivision (b) of Article 4
820 of this Contract, shall be divided by the scheduled total, the quotient thus obtained being
821 hereinafter referred to as the Contractor's proportionate share; and

822 (4) The available supply shall be multiplied by the Contractor's
823 proportionate share and the result shall be the quantity of Project Water made available by the
824 United States to the Contractor for the relevant Year in accordance with the schedule developed
825 by the Contracting Officer under subdivision (c)(1) of this Article 12, but in no event shall such
826 amount exceed the Contract Total. In the event the Contracting Officer subsequently determines
827 that the Contracting Officer can increase or needs to decrease the available supply for delivery
828 from Delta Division Facilities to long-term water service and repayment contractors during the
829 relevant Year, such additions or reductions to the available supply shall be apportioned
830 consistent with subparagraphs (1) through (4), inclusive.

831 (d) By entering into this Contract, the Contractor does not waive any legal
832 rights or remedies it may have to file or participate in any administrative or judicial proceeding
833 contesting: (i) the sufficiency of the Project M&I Water Shortage Policy; (ii) the substance of
834 such a policy; (iii) the applicability of such a policy; or (iv) the manner in which such policy is
835 implemented in order to allocate Project Water between M&I and irrigation purposes; Provided,
836 *That* the Contractor has commenced any such judicial challenge or any administrative procedures

837 necessary to institute any judicial challenge within six months of the policy becoming final. By
838 agreeing to the foregoing, the Contracting Officer does not waive any legal defenses or remedies
839 that it may have to assert in such a proceeding. Nothing contained herein shall be interpreted to
840 validate or invalidate the Project M&I Water Shortage Policy.

841 UNAVOIDABLE GROUNDWATER PERCOLATION

842 13. (a) To the extent applicable, the Contractor shall not be deemed to have
843 delivered Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this
844 Contract if such lands are irrigated with groundwater that reaches the underground strata as an
845 unavoidable result of the delivery of Irrigation Water by the Contractor to Eligible Lands.

846 (b) Upon complete payment of the Repayment Obligation by the Contractor,
847 this Article 13 shall no longer be applicable.

848 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

849 14. The parties agree that the delivery of Irrigation Water or use of Federal facilities
850 pursuant to this Contract is subject to Federal Reclamation law, including but not limited to, the
851 Reclamation Reform Act of 1982 (43 U.S.C. 390aa *et seq.*), as amended and supplemented, and
852 the rules and regulations promulgated by the Secretary of the Interior under Federal Reclamation
853 law.

854 PROTECTION OF WATER AND AIR QUALITY

855 15. (a) Omitted

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

861 (c) The Contractor will comply with all applicable water and air pollution
862 laws and regulations of the United States and the State of California; and will obtain all required
863 permits or licenses from the appropriate Federal, State, or local authorities necessary for the
864 delivery of water by the Contractor; and shall be responsible for compliance with all Federal,

865 State, and local water quality standards applicable to surface and subsurface drainage and/or
866 discharges generated through the use of Federal or Contractor facilities or Project Water
867 provided by the Contractor within its Service Area.

868 (d) This Article shall not affect or alter any legal obligations of the Secretary
869 to provide drainage or other discharge services.

870 (e) Omitted

871 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED
872 STATES

873 16. (a) Water or water rights now owned or hereafter acquired by the Contractor
874 other than from the United States and Irrigation Water furnished pursuant to the terms of this
875 Contract may be simultaneously transported through the same distribution facilities of the
876 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water
877 and non-Project water were constructed without funds made available pursuant to Federal
878 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the
879 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive
880 Irrigation Water must be established through the certification requirements as specified in the
881 Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of
882 Eligible Lands within the Contractor's Service Area can be established and the quantity of
883 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such
884 Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-
885 Project water are (were) constructed with funds made available pursuant to Federal Reclamation
886 law, the non-Project water will be subject to the acreage limitation provisions of Federal
887 Reclamation law, unless the Contractor pays to the United States the incremental fee described in
888 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will calculate

889 annually the cost to the Federal Government, including interest, of storing or delivering non-
890 Project water, which for purposes of this Contract shall be determined as follows: The quotient
891 shall be the unpaid distribution system costs divided by the total irrigable acreage within the
892 Contractor's Service Area. The incremental fee per acre is the mathematical result of such
893 quotient times the interest rate determined using Section 202 (3) of the Act of October 12, 1982
894 (96 Stat. 1263). Such incremental fee will be charged to each acre of excess or full-cost land
895 within the Contractor's Service Area that receives non-Project water through Federally financed
896 or constructed facilities. The incremental fee calculation methodology will continue during the
897 term of this Contract absent the promulgation of a contrary Bureau of Reclamation-wide rule,
898 regulation, or policy adopted after the Contractor has been afforded the opportunity to review
899 and comment on the proposed rule, regulation, or policy. If such rule, regulation, or policy is
900 adopted, it shall supersede this provision.

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

906 (1) The Contractor may introduce non-Project water into Project
907 facilities and deliver said water to lands within the Contractor's Service Area, including
908 Ineligible Lands, subject to payment to the United States and/or to any applicable Operating
909 Non-Federal Entity of an appropriate rate as determined by the applicable Project ratesetting
910 policy, the Reclamation Reform Act of 1982, and the Project use power policy, if such Project

911 use power policy is applicable, each as amended, modified, or superseded from time to time.

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

918 (3) Neither the United States nor the Operating Non-Federal
919 Entity(ies) shall be responsible for control, care, or distribution of the non-Project water before it
920 is introduced into or after it is delivered from the Project facilities. The Contractor hereby
921 releases and agrees to defend and indemnify the United States and the Operating Non-Federal
922 Entity(ies), and their respective officers, agents, and employees, from any claim for damage to
923 persons or property, direct or indirect, resulting from the act(s) of the Contractor, its officers,
924 employees, agents, or assigns, in (i) extracting or diverting non-Project water from any source, or
925 (ii) diverting such non-Project water into Project facilities.

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

929 (5) After Project purposes are met, as determined by the Contracting
930 Officer, the United States and Project Contractors entitled to Project Water from Delta Division
931 Facilities shall share priority to utilize the remaining capacity of the facilities declared to be
932 available by the Contracting Officer for conveyance and transportation of non-Project water prior

933 to any such remaining capacity being made available to non-Project contractors. Other Project
934 Contractors shall have a second priority to any remaining capacity of facilities declared to be
935 available by the Contracting Officer for conveyance and transportation of non-Project water prior
936 to any such remaining capacity being made available to non-Project contractors.

937 (c) Upon complete payment of the Repayment Obligation by the Contractor,
938 subdivision (a) of this Article 16 shall no longer be applicable.

939 OPINIONS AND DETERMINATIONS

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

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

955

COORDINATION AND COOPERATION

956 18. (a) In order to further their mutual goals and objectives, the Contracting
957 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
958 with other affected Project Contractors, in order to improve the O&M of the Project. The
959 communication, coordination, and cooperation regarding O&M shall include, but not be limited
960 to, any action which will or may materially affect the quantity or quality of Project Water supply,
961 the allocation of Project Water supply, and Project financial matters including, but not limited to,
962 budget issues. The communication, coordination, and cooperation provided for hereunder shall
963 extend to all provisions of this Contract. Each party shall retain exclusive decision making
964 authority for all actions, opinions, and determinations to be made by the respective party.

965 (b) Within 120 days following the Effective Date, the Contractor, other
966 affected Project Contractors, and the Contracting Officer shall arrange to meet with interested
967 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be
968 amended as necessary separate and apart from this Contract. The goal of this process shall be to
969 provide, to the extent practicable, the means of mutual communication and interaction regarding
970 significant decisions concerning Project O&M on a real-time basis.

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

974 (1) The Contracting Officer will, at the request of the Contractor,
975 assist in the development of integrated resource management plans for the Contractor. Further,
976 the Contracting Officer will, as appropriate, seek authorizations for implementation of

977 partnerships to improve water supply, water quality, and reliability.

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

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

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

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

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

993 CHARGES FOR DELINQUENT PAYMENTS

994 19. (a) The Contractor shall be subject to interest, administrative, and penalty
995 charges on delinquent payments. If a payment is not received by the due date, the Contractor
996 shall pay an interest charge on the delinquent payment for each day the payment is delinquent
997 beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in
998 addition to the interest charge, an administrative charge to cover additional costs of billing and
999 processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor
1000 shall pay, in addition to the interest and administrative charges, a penalty charge for each day the
1001 payment is delinquent beyond the due date, based on the remaining balance of the payment due

1002 at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt
1003 collection services associated with a delinquent payment.

1004 (b) The interest rate charged shall be the greater of either the rate prescribed
1005 quarterly in the Federal Register by the Department of the Treasury for application to overdue
1006 payments, or the interest rate of 0.5 percent per month. The interest rate charged will be
1007 determined as of the due date and remain fixed for the duration of the delinquent period.

1008 (c) When a partial payment on a delinquent account is received, the amount
1009 received shall be applied first to the penalty charges, second to the administrative charges, third
1010 to the accrued interest, and finally to the overdue payment.

1011 EQUAL EMPLOYMENT OPPORTUNITY

1012 20. During the performance of this Contract, the Contractor agrees as follows:

1013 (a) The Contractor will not discriminate against any employee or applicant for
1014 employment because of race, color, religion, sex, sexual orientation, gender identity, or national
1015 origin. The Contractor will take affirmative action to ensure that applicants are employed, and
1016 that employees are treated during employment, without regard to their race, color, religion, sex,
1017 sexual orientation, gender identity, or national origin. Such action shall include, but not be
1018 limited to, the following: employment, upgrading, demotion, or transfer; recruitment or
1019 recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and
1020 selection for training, including apprenticeship. The Contractor agrees to post in conspicuous
1021 places, available to employees and applicants for employment, notices to be provided by the
1022 Contracting Officer setting forth the provisions of this nondiscrimination clause.

1023 (b) The Contractor will, in all solicitations or advertisements for employees
1024 placed by or on behalf of the Contractor, state that all qualified applicants will receive
1025 consideration for employment without regard to race, color, religion, sex, sexual orientation,
1026 gender identity, or national origin.

1027 (c) The Contractor will not discharge or in any other manner discriminate
1028 against any employee or applicant for employment because such employee or applicant has
1029 inquired about, discussed, or disclosed the compensation of the employee or applicant or another
1030 employee or applicant. This provision shall not apply to instances in which an employee who
1031 has access to the compensation information of other employees or applicants as part of such
1032 employee's essential job functions discloses the compensation of such other employees or
1033 applicants to individuals who do not otherwise have access to such information, unless such
1034 disclosure is in response to a formal complaint or charge, in furtherance of an investigation,
1035 proceeding, hearing, or action, including an investigation conducted by the employer, or is
1036 consistent with the Contractor's legal duty to furnish information.

1037 (d) The Contractor will send to each labor union or representative of workers
1038 with which it has a collective bargaining agreement or other contract or understanding, a notice,
1039 to be provided by the Contracting Officer, advising the labor union or workers' representative of
1040 the Contractor's commitments under Section 202 of Executive Order No. 11246 of September
1041 24, 1965, and shall post copies of the notice in conspicuous places available to employees and
1042 applicants for employment.

1043 (e) The Contractor will comply with all provisions of Executive Order No.
1044 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of
1045 Labor.

1046 (f) The Contractor will furnish all information and reports required by
1047 Executive Order No. 11246 of Sept. 24, 1965, and by the rules, regulations, and orders of the
1048 Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts
1049 by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain
1050 compliance with such rules, regulations, and orders.

1051 (g) In the event of the Contractor's noncompliance with the nondiscrimination
1052 clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be
1053 canceled, terminated, or suspended in whole or in part and the Contractor may be declared
1054 ineligible for further Government contracts in accordance with procedures authorized in
1055 Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and
1056 remedies invoked as provided in Executive Order No. 11246 of Sept. 24, 1965, or by rule,
1057 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1058 (h) The Contractor will include the provisions of paragraphs (a) through (g) in
1059 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1060 Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24,
1061 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor
1062 will take such action with respect to any subcontract or purchase order as may be directed by the
1063 Secretary of Labor as a means of enforcing such provisions, including sanctions for
1064 noncompliance: *Provided, however, That* in the event the Contractor becomes involved in, or is
1065 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
1066 Contractor may request the United States to enter into such litigation to protect the interests of
1067 the United States.

1068 GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

1069 21. (a) The obligation of the Contractor to pay the United States as provided in
1070 this Contract is a general obligation of the Contractor notwithstanding the manner in which the
1071 obligation may be distributed among the Contractor's water users and notwithstanding the default
1072 of individual water users in their obligation to the Contractor.

1073 (b) The payment of charges becoming due pursuant to this Contract is a
1074 condition precedent to receiving benefits under this Contract. The United States shall not make
1075 water available to the Contractor through Project facilities during any period in which the
1076 Contractor is in arrears in the advance payment of water rates due the United States. The
1077 Contractor shall not deliver water under the terms and conditions of this Contract for lands or
1078 parties that are in arrears in the advance payment of water rates as levied or established by the
1079 Contractor.

1080 (c) With respect to subdivision (b) of this Article, the Contractor shall have no
1081 obligation to require advance payment for water rates which it levies.

1082 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1083 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
1084 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as
1085 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title
1086 III; 42 U.S.C. 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-
1087 336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the
1088 applicable implementing regulations and any guidelines imposed by the U.S. Department of the
1089 Interior and/or Bureau of Reclamation.

1090 (b) These statutes prohibit any person in the United States from being
1091 excluded from participation in, being denied the benefits of, or being otherwise subjected to
1092 discrimination under any program or activity receiving financial assistance from the Bureau of
1093 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this
1094 Contract, the Contractor agrees to immediately take any measures necessary to implement this
1095 obligation, including permitting officials of the United States to inspect premises, programs, and
1096 documents.

1097 (c) The Contractor makes this Contract in consideration of and for the
1098 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
1099 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
1100 Reclamation, including installment payments after such date on account of arrangements for
1101 Federal financial assistance which were approved before such date. The Contractor recognizes
1102 and agrees that such Federal assistance will be extended in reliance on the representations and
1103 agreements made in this Article and that the United States reserves the right to seek judicial
1104 enforcement thereof.

1105 (d) Complaints of discrimination against the Contractor shall be investigated
1106 by the Contracting Officer's Office of Civil Rights.

1107

PRIVACY ACT COMPLIANCE

1108 23. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act)
1109 (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy Act
1110 (43 C.F.R. § 2.45, et seq.) in maintaining Landholder certification and reporting records required
1111 to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the
1112 Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43
1113 C.F.R. § 426.18.

1114 (b) With respect to the application and administration of the criminal penalty
1115 provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's
1116 employees who are responsible for maintaining the certification and reporting records referenced
1117 in paragraph (a) above are considered to be employees of the Department of the Interior. See 5
1118 U.S.C. § 552a(m).

1119 (c) The Contracting Officer or a designated representative shall provide the
1120 Contractor with current copies of the Department of the Interior Privacy Act regulations and the
1121 Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-
1122 31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of
1123 information contained in the Landholders' certification and reporting records.

1124 (d) The Contracting Officer shall designate a full-time employee of the
1125 Bureau of Reclamation to be the System Manager responsible for making decisions on denials
1126 pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43 C.F.R. § 2.72.
1127 The Contractor is authorized to grant requests by individuals for access to their own records.

1128 (e) The Contractor shall forward promptly to the System Manager each
1129 proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of records
1130 filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and provide the
1131 System Manager with information and records necessary to prepare an appropriate response to
1132 the requester. These requirements do not apply to individuals seeking access to their own
1133 certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18 unless
1134 the requester elects to cite the Privacy Act as an authority for the request.

1135 (f) Upon complete payment of the Repayment Obligation by the Contractor,
1136 this Article 23 will no longer be applicable.

1137 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1138 24. In addition to all other payments to be made by the Contractor pursuant to this
1139 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and

1140 detailed statement submitted by the Contracting Officer to the Contractor for such specific items
1141 of direct cost incurred by the United States for work requested by the Contractor associated with
1142 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies
1143 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed
1144 to in writing in advance by the Contractor. This Article shall not apply to costs for routine
1145 contract administration.

1146 WATER CONSERVATION

1147 25. (a) Prior to the delivery of water provided from or conveyed through
1148 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
1149 shall develop a water conservation plan, as required by subsection 210(b) of the Reclamation
1150 Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).
1151 Additionally, an effective water conservation and efficiency program shall be based on the
1152 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
1153 the conservation and efficiency criteria for evaluating water conservation plans established under
1154 Federal law. The water conservation and efficiency program shall contain definite water
1155 conservation objectives, appropriate economically feasible water conservation measures, and
1156 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
1157 Contract shall be contingent upon the Contractor's continued implementation of such water
1158 conservation program. In the event the Contractor's water conservation plan or any revised water
1159 conservation plan completed pursuant to subdivision (d) of this Article 25 have not yet been
1160 determined by the Contracting Officer to meet such criteria, due to circumstances which the
1161 Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be
1162 made under this Contract so long as the Contractor diligently works with the Contracting Officer

1163 to obtain such determination at the earliest practicable date, and thereafter the Contractor
1164 immediately begins implementing its water conservation and efficiency program in accordance
1165 with the time schedules therein.

1166 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1167 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the
1168 Contractor shall implement the Best Management Practices identified by the time frames issued
1169 by the Mid-Pacific Region's then-existing conservation and efficiency criteria for such M&I
1170 Water unless any such practice is determined by the Contracting Officer to be inappropriate for
1171 the Contractor.

1172 (c) The Contractor shall submit to the Contracting Officer a report on the
1173 status of its implementation of the water conservation plan on the reporting dates specified in the
1174 then-existing conservation and efficiency criteria established under Federal law.

1175 (d) At five (5)-year intervals, the Contractor shall revise its water
1176 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating
1177 water conservation plans established under Federal law and submit such revised water
1178 management plan to the Contracting Officer for review and evaluation. The Contracting Officer
1179 will then determine if the water conservation plan meets the Bureau of Reclamation's then-
1180 existing conservation and efficiency criteria for evaluating water conservation plans established
1181 under Federal law.

1182 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1183 shall be described in the Contractor's water conservation plan.

EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

27. (a) The O&M of a portion of the Project facilities which serve the Contractor, and responsibility for funding a portion of the costs of such O&M, have been transferred to the San Luis & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement (8-07-20-X0354-X) between the United States and Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority. That separate agreement shall not interfere with or affect the rights or obligations of the Contractor or the United States hereunder.

(b) The Contracting Officer has previously notified the Contractor in writing that the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, and therefore, the Contractor shall pay directly to the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, or to any successor approved by the Contracting Officer under the terms and conditions of the separate agreement between the United States and the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority described in subdivision (a) of

1206 this Article, all rates, charges, or assessments of any kind, including any assessment for reserve
1207 funds, which the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or
1208 such successor determines, sets, or establishes for the O&M of the portion of the Project
1209 facilities operated and maintained by the Operating Non-Federal Entity San Luis & Delta-
1210 Mendota Water Authority or such successor. Such direct payments to Operating Non-Federal
1211 Entity San Luis & Delta-Mendota Water Authority or such successor shall not relieve the
1212 Contractor of its obligation to pay directly to the United States the Contractor's share of the
1213 Project Rates, Charges, and Tiered Pricing Component except to the extent the Operating Non-
1214 Federal Entity San Luis & Delta-Mendota Water Authority collects payments on behalf of the
1215 United States in accordance with the separate agreement identified in subdivision (a) of this
1216 Article.

1217 (c) For so long as the O&M of any portion of the Project facilities serving the
1218 Contractor is performed by Operating Non-Federal Entity San Luis & Delta-Mendota Water
1219 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the
1220 Rates for Water Delivered under this Contract representing the cost associated with the activity
1221 being performed by Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority
1222 or its successor.

1223 (d) In the event the O&M of the Project facilities operated and maintained by
1224 the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by
1225 the United States during the term of this Contract, the Contracting Officer shall so notify the
1226 Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall include
1227 the portion of the Rates to be paid by the Contractor for Project Water under this Contract

1228 representing the O&M costs of the portion of such Project facilities which have been re-assumed.
1229 The Contractor shall, thereafter, in the absence of written notification from the Contracting
1230 Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component specified in the
1231 revised Exhibit "B" directly to the United States in compliance with Article 7 of this Contract.

1232 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1233 28. The expenditure or advance of any money or the performance of any obligation of
1234 the United States under this Contract shall be contingent upon appropriation or allotment of
1235 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1236 obligations under this Contract. No liability shall accrue to the United States in case funds are
1237 not appropriated or allotted.

1238 BOOKS, RECORDS, AND REPORTS

1239 29. (a) The Contractor shall establish and maintain accounts and other books and
1240 records pertaining to administration of the terms and conditions of this Contract, including the
1241 Contractor's financial transactions; water supply data; project operations, maintenance, and
1242 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop
1243 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting
1244 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on
1245 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws
1246 and regulations, each party to this Contract shall have the right during office hours to examine
1247 and make copies of the other party's books and records relating to matters covered by this
1248 Contract.

1249 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1250 books, records, or other information shall be requested from the Contractor by the Contracting
1251 Officer unless such books, records, or information are reasonably related to the administration or
1252 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1253 time within which to provide the requested books, records, or information.

1254 (c) At such time as the Contractor provides information to the Contracting
1255 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided
1256 to the Operating Non-Federal Entity(ies).

1280 Water specified in this Contract available to the Contractor pursuant to the provisions of this
1281 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1282 RESOLUTION OF DISPUTES

1283 32. Should any dispute arise concerning any provisions of this Contract, or the
1284 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1285 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1286 Officer referring any matter to the Department of Justice, the party shall provide to the other
1287 party 30 days' written notice of the intent to take such action; *Provided, That* such notice shall
1288 not be required where a delay in commencing an action would prejudice the interests of the party
1289 that intends to file suit. During the 30-day notice period, the Contractor and the Contracting
1290 Officer shall meet and confer in an attempt to resolve the dispute. Except as specifically
1291 provided, nothing herein is intended to waive or abridge any right or remedy that the Contractor
1292 or the United States may have.

1293 OFFICIALS NOT TO BENEFIT

1294 33. No Member of or Delegate to the Congress, Resident Commissioner, or official of
1295 the Contractor shall benefit from this Contract other than as a water user or landowner in the
1296 same manner as other water users or landowners.

1297 CHANGES IN CONTRACTOR'S ORGANIZATION AND/OR SERVICE AREA

1298 34. (a) While this Contract is in effect, no change may be made in the
1299 Contractor's Service Area or organization, by inclusion or exclusion of lands or by any other
1300 changes which may affect the respective rights, obligations, privileges, and duties of either the
1301 United States or the Contractor under this Contract, including, but not limited to, dissolution,
1302 consolidation, or merger, except upon the Contracting Officer's written consent.

1303 (b) Within 30 days of receipt of a request for such a change, the Contracting
1304 Officer will notify the Contractor of any additional information required by the Contracting

1305 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1306 schedule for timely completion of the process. Such process will analyze whether the proposed
1307 change, is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1308 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1309 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1310 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1311 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be
1312 responsible for all costs incurred by the Contracting Officer in this process, and such costs will
1313 be paid in accordance with Article 24 of this Contract.

1314 FEDERAL LAWS

1315 35. By entering into this Contract, the Contractor does not waive its rights to contest
1316 the validity or application in connection with the performance of the terms and conditions of this
1317 Contract of any Federal law or regulation; *Provided, That* the Contractor agrees to comply with
1318 the terms and conditions of this Contract unless and until relief from application of such Federal
1319 law or regulation to the implementing provision of the Contract is granted by a court of
1320 competent jurisdiction.

1321 RECLAMATION REFORM ACT OF 1982

1322 36. (a) Upon a Contractor's compliance with and discharge of the Repayment
1323 Obligation pursuant to this Contract, subsections (a) and (b) of Section 213 of the Reclamation
1324 Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

1325 (b) The obligation of a Contractor to pay the Additional Capital Obligation
1326 shall not affect the Contractor's status as having repaid all of the construction costs assignable to

1327 the Contractor or the applicability of subsections (a) and (b) of Section 213 of the Reclamation
1328 Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

1329 CERTIFICATION OF NONSEGREGATED FACILITIES

1330 37. The Contractor hereby certifies that it does not maintain or provide for its
1331 employees any segregated facilities at any of its establishments and that it does not permit its
1332 employees to perform their services at any location under its control where segregated facilities
1333 are maintained. It certifies further that it will not maintain or provide for its employees any
1334 segregated facilities at any of its establishments and that it will not permit its employees to
1335 perform their services at any location under its control where segregated facilities are
1336 maintained. The Contractor agrees that a breach of this certification is a violation of the Equal
1337 Employment Opportunity clause in this Contract. As used in this certification, the term
1338 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,
1339 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,
1340 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing
1341 facilities provided for employees which are segregated by explicit directive or are in fact
1342 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,
1343 disability, or otherwise. The Contractor further agrees that (except where it has obtained
1344 identical certifications from proposed subcontractors for specific time periods) it will obtain
1345 identical certifications from proposed subcontractors prior to the award of subcontracts
1346 exceeding \$10,000 which are not exempt from the provisions of the Equal Employment
1347 Opportunity clause; that it will retain such certifications in its files; and that it will forward the
1348 following notice to such proposed subcontractors (except where the proposed subcontractors
1349 have submitted identical certifications for specific time periods):

1350 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
1351 CERTIFICATIONS OF NONSEGREGATED FACILITIES

1352 A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract
1353 exceeding \$10,000 which is not exempt from the provisions of the Equal Employment
1354 Opportunity clause. The certification may be submitted either for each subcontract or for all
1355 subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for
1356 making false statements in offers is prescribed in 18 U.S.C. § 1001.

1357 NOTICES

1358 38. Any notice, demand, or request authorized or required by this Contract shall be
1359 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1360 delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno,
1361 California 93721, Bureau of Reclamation, and on behalf of the United States, when mailed,
1362 postage prepaid, or delivered to the Board of Directors of The West Side Irrigation District,

1363 P. O. Box 177, Tracy, California 95378. The designation of the addressee or the address may be
1364 changed by notice given in the same manner as provided in this Article for other notices.

1365 MEDIUM FOR TRANSMITTING PAYMENT

1366 39. (a) All payments from the Contractor to the United States under this Contract
1367 shall be by the medium requested by the United States on or before the date payment is due. The
1368 required method of payment may include checks, wire transfers, or other types of payment
1369 specified by the United States.

1370 (b) Upon execution of this Contract, the Contractor shall furnish the
1371 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose
1372 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising
1373 out of the Contractor's relationship with the United States.

1374 CONTRACT DRAFTING CONSIDERATIONS

1375 40. This amended Contract has been negotiated and reviewed by the parties hereto,
1376 each of whom is sophisticated in the matters to which this amended Contract pertains. The
1377 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by
1378 the parties, and no one party shall be considered to have drafted the stated Articles. Single-
1379 spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

1380 CONFIRMATION OF CONTRACT

1381 41. Promptly after the execution of this amended Contract, the Contractor will
1382 provide to the Contracting Officer a certified copy of a final decree of a court of competent
1383 jurisdiction in the State of California, confirming the proceedings on the part of the Contractor
1384 for the authorization of the execution of this amended Contract. This amended Contract shall not
1385 be binding on the United States until the Contractor secures a final decree.

1386

1387 IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the
1388 day and year first above written.

1389 UNITED STATES OF AMERICA

1390 By: 
1391 Regional Director
1392 Interior Region 10: California-Great Basin
1393 Bureau of Reclamation

1394 THE WEST SIDE IRRIGATION DISTRICT
1395 (SEAL)

1396 By: 
1397 President of the Board of Directors

1398 Attest: 
1399 By: 
1400 Secretary of the Board of Directors

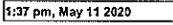
1387 IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the
1388 day and year first above written.

1389 UNITED STATES OF AMERICA

APPROVED AS TO LEGAL FORM AND
SUFFICIENCY - REVIEWED BY:

 Digitally signed by
BRIAN HUGHES
Date: 2020.10.16
18:17:34 -07'00'

OFFICE OF THE REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

TIME STAMP: 

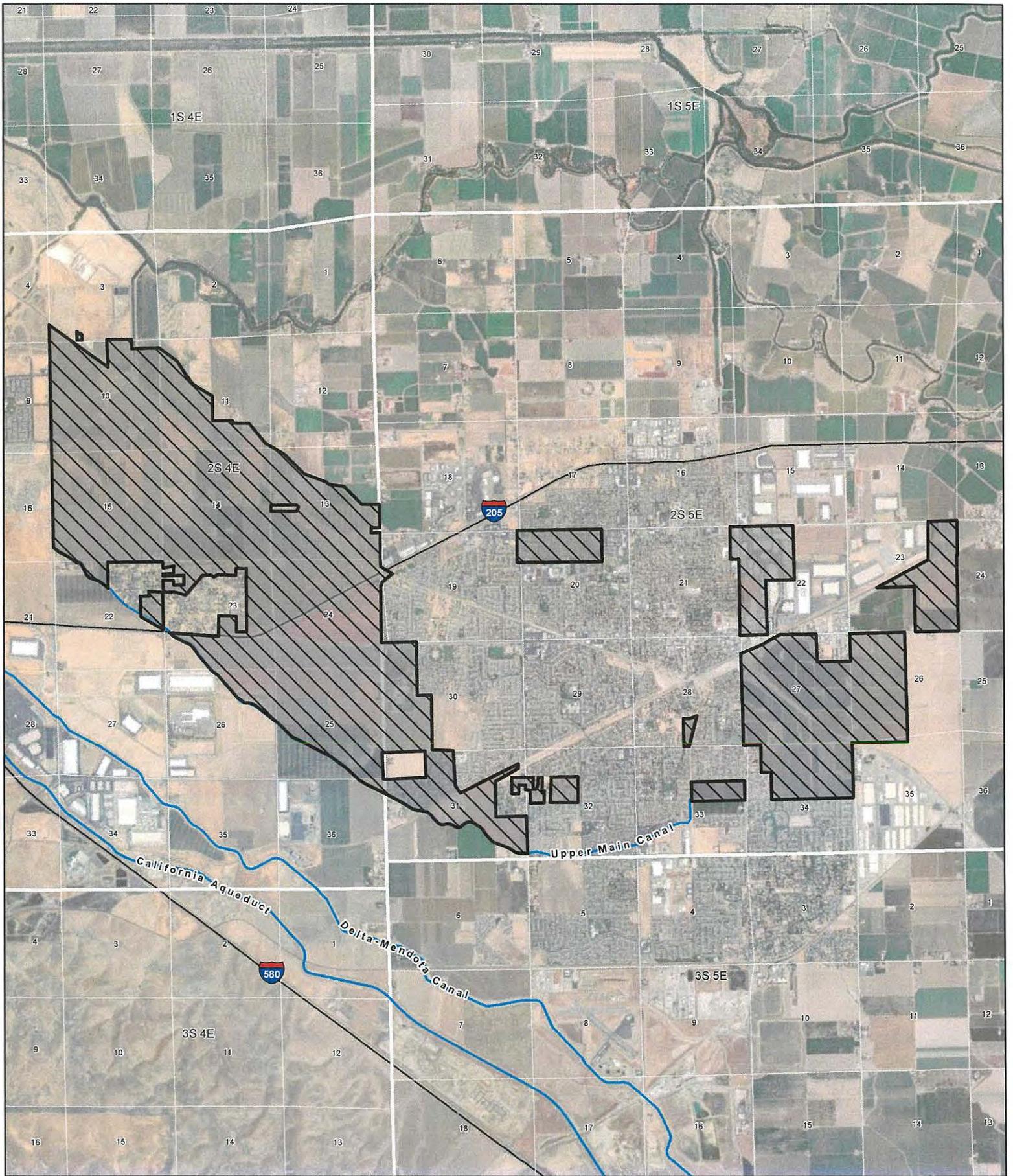
1390 By: _____
1391 Regional Director
1392 Interior Region 10: California-Great Basin
1393 Bureau of Reclamation

1394 THE WEST SIDE IRRIGATION DISTRICT
1395 (SEAL)

1396 By: _____
1397 President of the Board of Directors

1398 Attest:

1399 By: _____
1400 Secretary of the Board of Directors



-  District Boundary
-  Contractor's Service Area

The West Side Irrigation District

Contract No. 7-07-20-W0045-LTR1-P
Exhibit A



— BUREAU OF —
RECLAMATION



214-202-885

**EXHIBIT B
THE WEST SIDE IRRIGATION DISTRICT
2020 Rates and Charges
(Per Acre-Foot)**

	Irrigation Water	M&I Water ¹
COST-OF-SERVICE (COS) RATE		
Construction Costs	\$50.35	
DMC Aqueduct Intertie	\$0.93	
O&M Components		
Water Marketing	\$8.97	
Storage	\$18.01	
Deficit Cost	\$0.00	
TOTAL COS RATE (Tier 1 Rate)	\$78.26	
IRRIGATION FULL-COST RATE		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	TBD	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	TBD	
TIERED PRICING COMPONENTS (In Addition to Total COS Rate Above)		
IRRIGATION		
Tier 2 Rate: >80% <=90% of Contract Total [Section 202(3) Irrigation Full Cost Rate - Irrigation COS Rate]/2 (Amount to be added to Tier 1 Rate)	TBD	
Tier 3 Rate: >90% of Contract Total [Section 202(3) Irrigation Full Cost Rate - Irrigation COS Rate] (Amount to be added to Tier 1 Rate)	TBD	
CHARGES AND ASSESSMENTS (Payments in addition to Rates)		
P.L. 102-575 Surcharge (Restoration Fund Payment) [Section 3407(d)(2)(A)]	\$10.91	
P.L. 106-377 Assessment (Trinity Public Utilities District) [Appendix B, Section 203]	\$0.12	

EXPLANATORY NOTES

The Contractor has not projected any delivery of M&I Water for the 2020 contract year. A temporary M&I Rate will be applied upon any M&I water delivery.

The CVP M&I Water Shortage Policy per EIS/EIR dated August 2015 and Record of Decision dated November 2015 defines the M&I Historic Use as the average quantity of CVP water put to beneficial use during the last three years of water deliveries, unconstrained (100% allocation) by the availability of CVP water for South of the Delta. Contractor's last three years in acre feet (AF) are revised as follows: 2006 = 0 AF; 2011 = 0 AF; 2017 = 0 AF; which equals a M&I Historic use average quantity of 0 AF.

Additional detail of rate components is available on the Internet at:
<http://www.usbr.gov/mp/cvpwater/rates/ratebooks/index.html>

Exhibit C[@]

Repayment Obligation - Current Calculation under the WIIN Act, Section 4011 (a) (2)

Unpaid Construction Cost from the 2020 Water Rate Books*

Contractor: The West Side Irrigation District
Facility: Delta-Mendota Canal
Contract: 7-07-20-W0045-LTR1-P

Irrigation Construction Cost (2020 Irrigation Ratebook, Schedule A-2Ba)			
	~	Unpaid Cost	Discount
Construction Cost	~	\$ 335,513	
2019 Repayment (Estimate) **			
Adjusted Construction Cost		\$ 335,513	\$ 325,650
Intertie Construction Cost (N/A):		\$ 24,850	\$ 22,256
Total		\$ 360,363	\$ 347,906
If Paid in Installments (Used 20 yr CMT)			
	Due****		
Payment 1	9/1/2020		\$ 88,067
Payment 2	9/1/2021		\$ 88,067
Payment 3	9/1/2022		\$ 88,067
Payment 4 ~~~	9/1/2023		\$ 88,067
Total Installment Payments			\$ 352,266
20 yr CMT Rates - 04/28/2020 (to be adjusted to effective date of contract) [@]			1.000%
Discount Rate (1/2 of the Treasury Rate per the WIIN Act, Section 4011(a)(2)(A))			0.500%

M&I Construction Cost (2020 M&I Ratebook, Sch A-2Ba)		
	~	Unpaid Cost
Construction Cost:	~	\$ -
2019 Repayment (Estimate) **		
Adjusted Construction Cost***:		\$ -

Calculation Support: Irrigation Lump Sum or First Payment**** 9/1/2020
 Days Until the End of the Fiscal Year 29

Fiscal Yr	Unpaid Allocated Construction Cost			Unpaid Intertie Construction Cost			Total
	Beginning Balance	Straight Line Repayment	Present Value	Beginning Balance	Straight Line Repayment	Present Value	Present Values
2020	\$ 335,513	\$ 30,501	\$ 30,337	\$ 24,850	\$ 565	\$ 562	\$ 30,899
2021	\$ 305,012	\$ 30,501	\$ 30,198	\$ 24,285	\$ 565	\$ 559	\$ 30,758
2022	\$ 274,511	\$ 30,501	\$ 30,048	\$ 23,720	\$ 565	\$ 556	\$ 30,605
2023	\$ 244,009	\$ 30,501	\$ 29,899	\$ 23,156	\$ 565	\$ 554	\$ 30,452
2024	\$ 213,508	\$ 30,501	\$ 29,750	\$ 22,591	\$ 565	\$ 551	\$ 30,301
2025	\$ 183,007	\$ 30,501	\$ 29,602	\$ 22,026	\$ 565	\$ 548	\$ 30,150
2026	\$ 152,506	\$ 30,501	\$ 29,455	\$ 21,461	\$ 565	\$ 545	\$ 30,000
2027	\$ 122,005	\$ 30,501	\$ 29,308	\$ 20,897	\$ 565	\$ 543	\$ 29,851
2028	\$ 91,504	\$ 30,501	\$ 29,162	\$ 20,332	\$ 565	\$ 540	\$ 29,702
2029	\$ 61,002	\$ 30,501	\$ 29,017	\$ 19,767	\$ 565	\$ 537	\$ 29,555
2030	\$ 30,501	\$ 30,501	\$ 28,873	\$ 19,202	\$ 565	\$ 535	\$ 29,407
2031-63				\$ 18,638	\$ 18,638	\$ 16,227	\$ 16,227
Total, Lump Sum Payment			\$ 325,650			\$ 22,256	\$ 347,906

Amount of Reduction, Lump Sum \$ 9,863 \$ 2,594 \$ 12,457

* Costs are assumed to be paid and all charges are assumed to be accurate. If at a later date charges are determined to need update, they are still required. Also, unpaid charges are still a requirement under contract.
 ** 2019 Repayment is based on a conservative estimate. If not sufficient, the remainder will be billed.
 *** Excludes Interest to payment date as Interest will be computed as an annual expense as usual.
 **** Contractor has 60 days from the effective date of the contract or installment dates to make payment.
 ~ M&I Credit from Schedule A-2Ba has been applied to Irrigation Unpaid Amount.
 @ To be updated. The WIIN Act requires us to have a Constant Maturity Treasury rate based on the effective date of the contract.
 ~~~ Final Payment made in installments must be repaid by this date.