

**Resolution No. 21-301****A Resolution of the Board of Supervisors of the County of Fresno  
Adopting Findings and Authorizing the Execution of a Contract between the  
United States Department of Interior Bureau of Reclamation and County of Fresno  
Providing for Water Service and Facilities Repayment**

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

WHEREAS, on November 10, 1975, the Bureau of Reclamation, Department of Water Resources of the State of California ("DWR"), and the County of Fresno ("County") entered into a contract providing for water service via the Cross Valley Canal to the County, Contract No. 14-06-200-8292A (the "Original Contract");

WHEREAS, subsequent to February 29, 1996, and pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act ("CVPIA"), the Bureau of Reclamation, DWR and the County entered into interim renewal contracts identified as Contract Nos. 14-06-200-8292A-IR1 through IR18, the current of which is referred to as the "Existing Contract", and provides for continued water service to County from March 1, 2020 through February 28, 2022;

WHEREAS, the Existing Contract provides for conversion to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, as supplemented by the Act of July 2, 1956, all as provided by law;

WHEREAS, on or about December 16, 2016, the 114th Congress of the United States of America enacted the Water Infrastructure Improvements for the Nation Act, (Public Law 114-322, 130 Stat. 1628) (the "WIIN Act");

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

WHEREAS, in a letter from the Director of the County's Department of Public Works and Planning ("Director") dated April 26, 2018, County gave notice of intent to request that the United States convert the Existing Contract, entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1195), to a repayment contract under Section 9(d) of that act pursuant to Section 4011(a)(1)(A) of the WIIN Act, which the United States received as a request for conversion;

WHEREAS, the County and the Bureau of Reclamation agree on the terms and conditions of a form of repayment contract consistent with the requirements of the WIIN Act, entitled "Contract Between the United States and the County of Fresno Providing for Project Water Service and Facilities Repayment", Contract No. 14-06-200-8292A-IR5-P in the form attached hereto as Exhibit "A" and incorporated herein (the "Repayment Contract");

WHEREAS, the Repayment Contract continues water service from the CVP to County and provides, among other things, that the County reserves and shall have all of the rights available to it under the Act of July 2, 1956 (70 Stat. 483), and that upon completing the repayment obligations as required therein, the acreage limitations, reporting, and full cost pricing provisions of the Reclamation Reform Act of 1982 (96 Stat. 1263) shall no longer be applicable to the County;

WHEREAS, Project Water available to the County under the Repayment Contract will be diverted through the same facilities as the water provided under the Existing Contract;

WHEREAS, the County will continue to distribute Project Water received pursuant to the Repayment Contract through the same County distribution facilities used in connection with water made available under the Existing Contract;

WHEREAS, the Repayment Contract does not increase the quantity of Project Water to be made available to the County and no additional lands within the County will be irrigated as a result of the conversion to the Repayment Contract;

WHEREAS, the Repayment Contract requires that the County provide the United States with a final decree of a court of competent jurisdiction of the State of California confirming the proceedings on the part of the Contractor for the authorization and execution of the Repayment Contract;

WHEREAS, for purposes of the California Environmental Quality Act ("CEQA"), Lower Tule River Irrigation District is the lead agency for, by each agency that contracts for delivery of water through the Cross Valley Canal ("Cross Valley Contractor"), including the County: (1) the approval and execution of a contract with the United States, Department of Interior, Bureau of Reclamation ("Reclamation") that converts, pursuant to Section 4011(a)(1) of the Water Infrastructure Improvement for the Nation Act, Public Law 114-322, 130 Stat. 1628 (the "WIIN Act"), the Cross Valley Contractor's existing contract for Project Water from the CVP to a repayment contract authorizing prepayment of outstanding CVP construction costs; and (2) the approval and execution of a contract with Reclamation and DWR that renews and updates the terms of an existing contract for the conveyance of the Cross Valley Contractor's CVP water until 2035 (the "Project").

WHEREAS, Lower Tule River Irrigation District, as lead agency, at a duly noticed public meeting of its Board of Directors, by Resolution No. 2021-9-1, certified the Final EIR for the Cross Valley Contractors Conversion of Water Supply Contracts and Renewal of Conveyance Contracts (State Clearinghouse No. 2020100075) (the "Final EIR"), which Final EIR evaluates under CEQA (Public Resources Code Section 21000 et seq.) the conversion of the Existing Contract to the Repayment Contract, and the renewal of a long-term conveyance agreement by County with the Bureau of Reclamation and DWR as provided in the Conveyance Contract;

WHEREAS, pursuant to CEQA Guideline 15906, as a responsible agency, the County must consider the environmental effects as shown in the Final EIR prepared by Lower Tule River Irrigation District and reach its own conclusions on whether and how to approve the Project; and

WHEREAS, the County Board of Supervisors has independently reviewed and considered the information contained in the Final EIR, as well as Lower Tule River Irrigation District's certification of the Final EIR and approval of the Project, and Lower Tule River Irrigation District's Findings of Fact in Lower Tule River Irrigation District's Resolution No. 2021-9-1, and all oral and written evidence presented to this Board; and

WHEREAS, pursuant to CEQA and the CEQA Guidelines (14 Cal. Code Regs., Section 15000 et seq.) the County's Board of Supervisors must make and adopt written findings for each significant effect of the Project, accompanied by a brief explanation of the rationale for each finding. The Final EIR identifies no significant effects for the proposed Project, and the written findings, attached hereto as Exhibit "B", identify no significant effects for the proposed Project.

NOW, THEREFORE, BE IT RESOLVED BY THIS BOARD OF SUPERVISORS AS FOLLOWS:

1. The foregoing recitals are true and correct.
2. The form of the Repayment Contract attached hereto as Exhibit "A" and incorporated herein is hereby approved, and the Board acknowledges that:
  - a. Changes to the amount of the Repayment Obligation set forth in Exhibit C of the Repayment Contract will be finalized and adjusted to reflect a discount of  $\frac{1}{2}$  the Treasury rate as it exists on the effective date of the Repayment Contract, as required by Section 4011(a)(2)(A) of the WIIN Act;
  - b. Some terms will be finalized based on the date that the County signs and the Bureau of Reclamation countersigns the Repayment Contract, specifically including the date on Line 1 of the Repayment Contract; and
  - c. Some non-substantive, conforming edits might be necessary to reconcile all of the terms of the Repayment Contract.
3. The Fresno County Board of Supervisors authorize the Director, subject to review and approval by County Counsel and the Auditor-Controller/Treasurer-Tax Collector, to sign the final Repayment Contract attached hereto as Exhibit "A" and incorporated herein, subject only to the changes noted in Item 2 above.
4. The Director or their designee is authorized to and directed to provide two (2) signed originals of the Repayment Contract and a certified copy of this Resolution to the Bureau of Reclamation.
5. The Director and County Counsel are authorized and directed to take all such additional actions as may be necessary or appropriate to facilitate the conversion of the Existing Contract to the Repayment Contract, to obtain a final decree confirming the proceedings on the part of the County for the authorization and execution of the Repayment Contract, to obtain and expend funding necessary to satisfy the Repayment Obligation and to ensure continued and uninterrupted water service to the County under the Repayment Contract.
6. Pursuant to CEQA section 21166 and State CEQA Guidelines sections 15096(a) and 15162, the Final EIR prepared by Lower Tule River Irrigation District is adequate for use by the County as a responsible agency and is incorporated herein by this reference, and no subsequent or supplemental EIR is necessary to address any changes to the Project, changes in circumstances, or new information generated since Lower Tule River Irrigation District certified the Project Final EIR under CEQA.
7. Pursuant to State CEQA Guidelines section 15096 and in its limited role as a responsible agency under CEQA, the County Board has reviewed and considered the Final EIR, as

well as Lower Tule River Irrigation District's certification of the Final EIR and approval of the Project, and Lower Tule River Irrigation District's CEQA Findings of Fact, and the Board incorporates those items herein by reference. As to those resources within the County's power and authority as a responsible agency under CEQA, the Fresno County Board of Supervisors exercises its independent judgment and finds that the Final EIR contains a complete, objective, and accurate reporting of the Project's impacts.

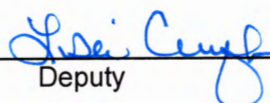
8. Exercising its independent judgment, the County Board concurs with the CEQA Findings of Fact approved by Lower Tule River Irrigation District and hereby adopts those CEQA Findings of Fact, attached hereto as Exhibit "B" and incorporated herein by this reference.
9. The Director or their designee are hereby authorized and directed to take all actions necessary to effectuate the intent of this Resolution, and to cause a Notice of Determination reflecting the foregoing actions to be executed and filed with the State Clearinghouse.

THE FOREGOING, was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this 19<sup>th</sup> day of October 2021, to-wit:

AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero  
NOES: None  
ABSENT: None  
ABSTAINED: None

  
\_\_\_\_\_  
Steve Brandau, Chairman of the Board of Supervisors of the County of Fresno

**ATTEST:**  
Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

By  \_\_\_\_\_  
Deputy

**Exhibit "A"**  
**Repayment Contract**

# EXHIBIT A

USBR WIIN ACT CONTRACT CROSS VALLEY COUNTY OF FRESNO EXHIBIT #2  
Final Draft 06-11-2021

Irrigation and M&I  
Contract No. 14-06-200-8292A-IR5-P

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

CONTRACT BETWEEN THE UNITED STATES  
AND  
THE COUNTY OF FRESNO  
PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT

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- Exhibit A – Map of Contractor’s Service Area
- Exhibit B – Rates and Charges
- Exhibit C – Repayment Obligation

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

CONTRACT BETWEEN THE UNITED STATES  
AND  
THE COUNTY OF FRESNO  
PROVIDING FOR PROJECT WATER SERVICE AND FACILITIES REPAYMENT

1 THIS CONTRACT, made this [REDACTED] day of [REDACTED], 20[REDACTED], in pursuance  
2 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 COUNTY OF  
12 FRESNO, hereinafter referred to as the Contractor, a public agency of the State of California,  
13 duly organized, existing, and acting pursuant to the laws thereof with its principal place of  
14 business in California;

15 WITNESSETH, That:



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EXPLANATORY RECITALS

[1<sup>st</sup>] 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

[2<sup>nd</sup>] WHEREAS, the United States constructed the Project facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

[3<sup>rd</sup>] WHEREAS, as provided herein, Project Water may be made available for the Contractor in the Sacramento-San Joaquin Delta and/or from the Friant Division and delivered to the Contractor through appropriate federal, state and/or local facilities; and

[4<sup>th</sup>] WHEREAS, the Department of Water Resources of the State of California (DWR) is engaged in the operation of the State Water Project (SWP) pursuant to the laws of the State of California involving the development, transportation, and delivery of water supplies to public agencies throughout the State of California; and

[5<sup>th</sup>] WHEREAS, the Cross Valley Canal, connecting the California Aqueduct and the Friant-Kern Canal in Kern County, has been constructed by the Contractor and others at no cost to the United States; and

[6<sup>th</sup>] WHEREAS, the Contractor has the right to use the Cross Valley Canal for conveyance of the Project Water furnished hereunder; and

[7<sup>th</sup>] WHEREAS, the rights to Project Water were acquired by the United States

39 pursuant to California law for operation of the Project; and

40 [8<sup>th</sup>] WHEREAS, the Contractor and the United States entered into Contract No.  
41 14-06-200-8292A, as amended, which established terms for the delivery to the Contractor of  
42 Project Water via the Cross Valley Canal from November 10, 1975, through February 29, 1996;  
43 and

44 [9<sup>th</sup>] WHEREAS, the Contractor and the United States have pursuant to subsection  
45 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into  
46 interim renewal contract(s) identified as Contract No(s). 14-06-200-8292A-IR1 through IR18 the  
47 current of which is hereinafter referred to as the Existing Contract, which provided for the  
48 continued water service to the Contractor from March 1, 1996 through February 28, 2022; and

49 [10<sup>th</sup>] WHEREAS, on December 16, 2016, the 114<sup>th</sup> Congress of the United States of  
50 America enacted the WIIN Act; and

51 [11<sup>th</sup>] WHEREAS, Section 4011(a)(1) provides that “upon request of the contractor, the  
52 Secretary of the Interior shall convert any water service contract in effect on the date of  
53 enactment of this subtitle and between the United States and a water users’ association  
54 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under  
55 mutually agreeable terms and conditions.”; and

56 [12<sup>th</sup>] WHEREAS, Section 4011(a)(1) further provides that “the manner of conversion  
57 under this paragraph shall be as follows: (A) Water service contracts that were entered into  
58 under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section  
59 shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195)”; and  
60 “(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of  
61 August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a

62 contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

63 [13<sup>th</sup>] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered into  
64 pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service, repayment,  
65 exchange and transfer contractual rights between the water users’ association [Contractor], and  
66 the Bureau of Reclamation, or any rights, obligations, or relationships of the water users’  
67 association [Contractor] and their landowners as provided under State law.”; and

68 [14<sup>th</sup>] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that  
69 “implementation of the provisions of this subtitle shall not alter...(3) the priority of a water  
70 service or repayment contractor to receive water; or (4) except as expressly provided in this  
71 section, any obligations under the Federal Reclamation law, including the continuation of  
72 Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and  
73 repayment contractors making prepayments pursuant to this section.”; and

74 [15<sup>th</sup>] WHEREAS, upon the request of the Contractor, the WIIN Act directs the  
75 Secretary to convert irrigation water service contracts and municipal and industrial (M&I) water  
76 service contracts into repayment contracts, amend existing repayment contracts, and allow  
77 contractors to prepay their construction cost obligations pursuant to applicable Federal  
78 Reclamation law; and

79 [16<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all  
80 of its obligations under the Existing Contract; and

81 [17<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the  
82 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for  
83 reasonable and beneficial use and/or has demonstrated projected future demand for water use  
84 such that the Contractor has the capability and expects to utilize fully for reasonable and

85 beneficial use the quantity of Project Water to be made available to it pursuant to this Contract;  
86 and

87 [18<sup>th</sup>] WHEREAS, water obtained from the Project has been relied upon by urban and  
88 agricultural areas within California for more than 50 years, and is considered by the Contractor  
89 as an essential portion of its water supply; and

90 [19<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the  
91 Contractor's, depend upon the continued availability of water, including water service from the  
92 Project; and

93 [20<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and  
94 partnerships to pursue measures to improve water supply, water quality, and reliability of the  
95 Project for all Project purposes; and

96 [21<sup>st</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
97 provide for reliable Project Water supplies; to control costs of those supplies; to achieve  
98 repayment of the Project as required by law; to guard reasonably against Project Water  
99 shortages; to achieve a reasonable balance among competing demands for use of Project Water;  
100 and to comply with all applicable environmental statutes, all consistent with the legal obligations  
101 of the United States relative to the Project; and

102 [22<sup>nd</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative  
103 relationship in order to achieve their mutual goals; and

104 [23<sup>rd</sup>] WHEREAS, the Contractor has utilized or may utilize transfers, exchanges,  
105 contract assignments, rescheduling and conveyance of Project Water and non-Project water  
106 under this Contract as tools to minimize the impacts of a Condition of Shortage and to maximize  
107 the beneficial use of water (Contractors included); and

108 [24<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into a  
109 separate contract with DWR for conveyance of Project Water through the facilities of the SWP  
110 wherein the United States is willing to furnish the necessary power for pumping such water  
111 through Harvey O. Banks Pumping Plant and Dos Amigos Pumping Plant pursuant to the then-  
112 existing CVP Project use power policy and the terms and conditions specified in such separate  
113 contract; and

114 [25<sup>th</sup>] WHEREAS, the United States and the Contractor understand that DWR is willing  
115 to convey such water through State Facilities; and

116 [26<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree that this Contract  
117 complies with Section 4011 of the WIIN Act; and

118 [27<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree to amend and  
119 convert the Existing Contract pursuant to Section 4011 of the WIIN Act and other Federal  
120 Reclamation law on the terms and conditions set forth below;

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

123 DEFINITIONS

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

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

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

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

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

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

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

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

148 (h) "Cross Valley Canal" shall mean the water conveyance and related works  
149 constructed by the Contractor and others to deliver water from the California Aqueduct, which  
150 canal currently is operated by Kern County Water Agency;

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

153 (j) "Eligible Lands" shall mean all lands to which Irrigation Water may be

154 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982  
155 (96 Stat. 1263), as amended;

156 (k) “Excess Lands” shall mean all lands in excess of the limitations contained  
157 in Section 204 of the Reclamation Reform Act of 1982, other than those lands exempt from  
158 acreage limitation under Federal Reclamation law;

159 (l) “Existing Capital Obligation” shall mean the remaining amount of  
160 construction costs or other capitalized costs allocable to the Contractor as described in Section  
161 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central  
162 Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively,  
163 dated Month/Day/Year [specify ratebook year for all contractors.] [contractor specific to  
164 address the intertie], as adjusted to reflect payments not reflected in such schedule. The  
165 Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in  
166 Exhibit “C”, which is incorporated herein by reference;

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

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

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

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

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

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

190 or water delivered to land holdings operated in units of less than five acres unless the Contractor  
191 establishes to the satisfaction of the Contracting Officer that the use of water delivered to any  
192 such landholding is a use described in subdivision (p) of this Article;

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

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

198 (u) "Operating Non-Federal Entity" shall mean either the San Luis & Delta  
199 Mendota Water Authority or the Friant Water Authority, their successors or assigns, non-Federal  
200 entities which have the obligation to operate and maintain all or a portion of the Project facilities  
201 pursuant to written agreements with the United States, and which may have funding obligations  
202 with respect thereto;



203 (v) "Operations Manual" shall mean the manual developed by DWR and  
204 Reclamation setting forth procedures, which shall be consistent with this Contract, for working  
205 level communications including scheduling and accounting for power and water services.;

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

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

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

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

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

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

225 (cc) "Secretary" shall mean the Secretary of the Interior, a duly appointed

226 successor, or an authorized representative acting pursuant to any authority of the Secretary and  
227 through any agency of the Department of the Interior;

228 (dd) “State Facilities” shall mean that portion of the SWP (including DWR's  
229 portion of the San Luis Unit joint-use facilities), necessary to convey Project Water from the  
230 Sacramento-San Joaquin Delta (Delta) to points of delivery as scheduled pursuant to Article 5 of  
231 this Contract;

232 (ee) “State Water Project” or “SWP” shall mean the California State Water  
233 Project;

234 (ff) “Tiered Pricing Component” shall be the incremental amount to be paid  
235 for each acre-foot of Water Delivered as described in Article 7 of this Contract and as provided  
236 for in Exhibit “B”;

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

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

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

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

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TERM OF CONTRACT – RIGHT TO USE OF WATER

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

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

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

(3) *Provided, further, That* this Contract may be terminated at any

270 time by mutual consent of the parties hereto.

271 (b) Upon complete payment of the Repayment Obligation by the Contractor,  
272 and notwithstanding any Additional Capital Obligation that may later be established, the acreage  
273 limitations, reporting, and Full Cost pricing provisions of the Reclamation Reform Act of 1982,  
274 and subdivisions (j) Eligible Lands, (k) Excess Lands, and (n) Ineligible Lands, of Article 1 of  
275 this Contract shall no longer be applicable.

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

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

282 WATER TO BE MADE AVAILABLE AND DELIVERED FOR THE CONTRACTOR

283 3. (a) During each Year, consistent with all applicable State water rights,  
284 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of  
285 this Contract, the Contracting Officer shall make available in the Delta for delivery for the  
286 Contractor 3,000 acre-feet of Project Water for irrigation and M&I purposes. The quantity of  
287 Water Delivered for the Contractor in accordance with this subdivision shall be scheduled,  
288 conveyed, and paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

289 (b) Because the capacity of the Project to deliver Project Water has been  
290 constrained in recent years and may be constrained in the future due to many factors including  
291 hydrologic conditions and implementation of Federal and State laws, the likelihood of the  
292 Contractor actually receiving the full amount of Project Water set out in subdivision (a) of this

293 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the  
294 programmatic environmental impact statement prepared pursuant to Section 3404(c) of  
295 the CVPIA projected that of the Contract Total set forth in this Contract will not be available for  
296 the Contractor in many years. During the most recent five years prior to execution of the  
297 Existing Contract, the Recent Historic Average of Water Made Available for the Contractor was  
298 450 acre-feet annually. Nothing in this subdivision (b) of this Article shall affect the rights and  
299 obligations of the parties under any provision of this Contract.

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

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

316 will be based upon environmental documentation, Project Water rights, and Project operational  
317 concerns. The Contracting Officer will address such concerns in regulations, policies, or  
318 guidelines.

319 (e) The Contractor shall comply with requirements applicable to the  
320 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution  
321 of any water service contract between the Contracting Officer and the Contractor in effect  
322 immediately prior to the Effective Date undertaken pursuant to Section 7 of the Endangered  
323 Species Act of 1973 (ESA), as amended, that are within the Contractor's legal authority to  
324 implement. The Existing Contract, which evidences in excess of 44 years of diversions for  
325 irrigation and/or M&I purposes of the quantities of Project Water provided in subdivision (a) of  
326 Article 3 of this Contract, will be considered in developing an appropriate baseline for any  
327 required biological assessment(s) prepared pursuant to the ESA, and any other needed  
328 environmental review. Nothing herein shall be construed to prevent the Contractor from  
329 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any  
330 biological opinion or other environmental documentation referred to in this Article.

331 (f) Following the declaration of Water Made Available under Article 4 of this  
332 Contract, the Contracting Officer will make a determination whether Project Water, or other  
333 water available to the Project, can be made available for the Contractor in addition to the  
334 Contract Total under this Article 3 during the Year without adversely impacting other Project  
335 Contractors. At the request of the Contractor, the Contracting Officer will consult with the  
336 Contractor prior to making such a determination. If the Contracting Officer determines that  
337 Project Water, or other water available to the Project, can be made available for the Contractor,  
338 the Contracting Officer will announce the availability of such water and shall so notify the

339 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor  
340 and other Project Contractors capable of taking such water to determine the most equitable and  
341 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such  
342 water, the Contracting Officer shall make such water available for the Contractor in accordance  
343 with applicable statutes, regulations, guidelines, and policies. If the Contracting Officer  
344 determines that there is an unusually large water supply not otherwise storable for Project  
345 purposes or infrequent and otherwise unmanaged flood flows of short duration from the Friant  
346 Division, then Friant Division Project Water may be made available for the Contractor as Section  
347 215 Water under Section 215 of the Reclamation Reform Act of 1982 if the Contractor enters  
348 into a temporary contract, not to exceed one (1) year, with the United States for the delivery of  
349 such water or, as otherwise provided for in Federal Reclamation law and associated regulations:  
350 *Provided, That* such water shall be first made available to the Friant Division long-term water  
351 service and repayment contractors.

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

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

362 and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the Act of August 4,  
363 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding sentence shall  
364 affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of  
365 Article 12 of this Contract.

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

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

378 (k) Conveyance and/or storage of Project Water for the Contractors may be  
379 provided subject to terms and conditions of a separate conveyance contract among a Contractor,  
380 the United States, and DWR.

381 (l) If in any Year after the Contracting Officer has approved a schedule or  
382 any revision thereof submitted in accordance within subdivision (a) and (b) of Article 4 of this  
383 Contract, and if the Contracting Officer is unable to make water available in the quantities and at  
384 the times requested in the schedule and the Contractor does not elect to receive and does not



385 receive such water at other times during such Year, then the Contractor shall be entitled to  
386 adjustment(s) for overpayment as provided in subdivision (c) of Article 7 and Article 10 of this  
387 Contract.

388 TIME FOR DELIVERY OF WATER

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

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

407 (c) The Contractor shall not schedule Project Water in excess of the quantity

408 of Project Water the Contractor intends to put to reasonable and beneficial use within the  
409 Contractor's Service Area, pursuant to Article 3 or to sell, transfer or exchange pursuant to  
410 Article 5 and Article 9 of this Contract during any Year.

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

416 (e) Scheduling and delivery of Project Water for the Contractor shall be in  
417 accordance with guidelines set forth in the Operations Manual as it may be amended from time  
418 to time. The total amount of Project Water made available to DWR for the Contractor by the  
419 Contracting Officer shall include water by the Contracting Officer to compensate DWR for water  
420 conveyance losses incurred in conveyance of Project Water for the Contractor.

421 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

422 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
423 Contract shall be delivered for the Contractor at a point or points of delivery either on Project  
424 facilities or another location or locations mutually agreed to in writing by the Contracting Officer  
425 and the Contractor. The parties acknowledge that Project Water to be furnished for the  
426 Contractor pursuant to this Contract shall be delivered to the Contractor by direct delivery via the  
427 Cross Valley Canal and/or by exchange arrangements involving Arvin-Edison Water Storage  
428 District or others. The parties further acknowledge that such exchange arrangements are not  
429 transfers subject to Section 3405(a) of CVPIA. Such exchange arrangements, other than the  
430 previously approved exchange arrangements with Arvin-Edison Water Storage District approved

431 by Assistant Regional Director, J. Robert Hammond, on December 4, 1974, shall be submitted to  
432 the Contracting Officer for approval prior to the implementation of the proposed exchange.

433 (b) Omitted.

434 (1) To the extent that Friant Division Project Water exceeds Friant  
435 Division Contract demand and other Project purposes, as determined by the Contracting Officer  
436 and after consultation with the Contractor, if the Contractor so requests, the Contracting Officer,  
437 subject to subdivision (d) of Article 3 of this Contract, shall make Project Water provided for in  
438 subdivision (a) of Article 3 of this Contract available from such Friant Division supplies.

439 (2) As determined solely by the Contracting Officer, and after  
440 consultation with the Contractor, Project Water may be provided to the Contractor, at the  
441 Contractor's request and subject to the terms and conditions of this Contract, through Federal  
442 Delta diversion and conveyance facilities and/or re-regulated in the Federal share of storage at  
443 San Luis Reservoir for later delivery to the Contractor.

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

448 (d) All Water Delivered to the Contractor pursuant to this Contract shall be  
449 measured and recorded with equipment furnished, installed, operated, and maintained by the  
450 Contracting Officer either directly or indirectly through its written agreements(s) with the  
451 Operating Non-Federal Entity/Entities, unless undertaken by the Contractor with the  
452 consent of the Contracting Officer at the point or points of delivery established pursuant to  
453 subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting

454 Officer shall investigate, or cause to be investigated by the appropriate Operating Non-Federal  
455 Entity/Entities, the accuracy of such measurements and shall take any necessary steps to adjust  
456 any errors appearing therein. For any period of time when accurate measurements have not been  
457 made, the Contracting Officer shall consult with the Contractor and the appropriate Operating  
458 Non-Federal Entity/Entities, if any, prior to making a final determination of the quantity  
459 delivered for that period of time.

460 (e) Neither the Contracting Officer nor any Operating Non-Federal  
461 Entity/Entities shall be responsible for the control, carriage, handling, use, disposal, or  
462 distribution of Water Delivered to the Contractor pursuant to this Contract beyond the point or  
463 points of delivery established pursuant to subdivision (a) of this Article. The Contractor shall  
464 indemnify the United States, its officers, employees, agents, and assigns on account of damage or  
465 claim of damage of any nature whatsoever for which there is legal responsibility, including  
466 property damage, personal injury, or death arising out of or connected with the control, carriage,  
467 handling, use, disposal, or distribution of such Water Delivered beyond such point or points of  
468 delivery, except for any damage or claim arising out of: (i) acts or omissions of the Contracting  
469 Officer or any of its officers, employees, agents, or assigns, including the Operating Non-Federal  
470 Entity/Entities, with the intent of creating the situation resulting in any damage or claim; (ii)  
471 willful misconduct of the Contracting Officer or any of its officers, employees, agents, or  
472 assigns, including the Operating Non-Federal Entity/Entities; (iii) negligence of the Contracting  
473 Officer or any of its officers, employees, agents, or assigns including the Operating Non-Federal  
474 Entity/Entities; or (iv) damage or claims resulting from a malfunction of facilities owned and/or  
475 operated by the United States or the Operating Non-Federal Entity/Entities; *Provided, That* the  
476 Contractor is not the Operating Non-Federal Entity that owned or operated the malfunctioning

477 facility(ies) from which the damage claim arose.

478 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

479 6. (a) The Contractor has established a measuring program satisfactory to the  
480 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation  
481 purposes within the Contractor's Service Area is measured at each agricultural turnout and such  
482 water delivered for M&I purposes is measured at each M&I service connection. The water  
483 measuring devices or water measuring methods of comparable effectiveness must be acceptable  
484 to the Contracting Officer. The Contractor shall be responsible for installing, operating, and  
485 maintaining and repairing all such measuring devices and implementing all such water  
486 measuring methods at no cost to the United States. The Contractor shall use the information  
487 obtained from such water measuring devices or water measuring methods to ensure its proper  
488 management of the water, to bill water users for water delivered by the Contractor; and, if  
489 applicable, to record water delivered for M&I purposes by customer class as defined in the  
490 Contractor's water conservation plan provided for in Article 25 of this Contract. Nothing herein  
491 contained, however, shall preclude the Contractor from establishing and collecting any charges,  
492 assessments, or other revenues authorized by California law. The Contractor shall include a  
493 summary of all its annual surface water deliveries in the annual report described in subdivision  
494 (c) of Article 25 of this Contract.

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

500 at which such measurement devices or water measuring methods are being used, and, if  
501 applicable, identifying the locations at which such devices and/or methods are not yet being used  
502 including a time schedule for implementation at such locations. The Contracting Officer shall  
503 advise the Contractor in writing within sixty (60) days as to the adequacy of, and necessary  
504 modifications, if any, of the measuring devices or water measuring methods identified in the  
505 Contractor's report and if the Contracting Officer does not respond in such time, they shall be  
506 deemed adequate. If the Contracting Officer notifies the Contractor that the measuring devices  
507 or methods are inadequate, the parties shall within sixty (60) days following the Contracting  
508 Officer's response, negotiate in good faith the earliest practicable date by which the Contractor  
509 shall modify said measuring devices and/or measuring methods as required by the Contracting  
510 Officer to ensure compliance with subdivision (a) of this Article.

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

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

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

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

522 7. (a) Notwithstanding the Contractor's full prepayment of the  
523 Repayment Obligation pursuant to Section 4011, subsection (a)(2)(A) and subsection

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

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

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

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

547 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth  
548 as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual  
549 installments (Irrigation Only) to be repaid no later than three (3) years after the Effective Date as  
550 set forth in Exhibit "C".

551 The Repayment Obligation is due in lump sum by **[Month Day, Year]** as provided by the  
552 WIIN Act. The Contractor must provide appropriate notice to the Contracting Officer in  
553 writing no later than thirty (30) days prior to

554 **[Month Day, Year] [Division Level: consider the effective date of**  
555 **the contract being converted]** if electing to repay the amount due using the lump sum

556 alternative. If such notice is not provided by such date, the Contractor shall be deemed to have  
557 elected the installment payment alternative, in which case, the first such payment shall be made

558 no later than **[Month Day, Year] [Division Level: consider the effective date of the contract**  
559 **being converted]**. The second payment shall be made no later than the first anniversary of the

560 first payment date. The third payment shall be made no later than the second anniversary of the  
561 first payment date. The final payment shall be made no later than **[Month Day, Year] [no later**

562 **than the third anniversary of the effective date of the contract]**. If the installment payment

563 option is elected by the Contractor, the Contractor may pre-pay the remaining portion of the

564 Repayment Obligation by giving the Contracting Officer sixty (60) days written notice, in which  
565 case, the Contracting Officer shall re-compute the remaining amount due to reflect the pre-

566 payment using the same methodology as was used to compute the initial annual installment

567 payment amount, which is illustrated in Exhibit "C". Notwithstanding any Additional Capital

568 Obligation that may later be established, receipt of the Contractor's payment of the Repayment

569 Obligation to the United States shall fully and permanently satisfy the Existing Capital



570 Obligation.

571 (B) Additional Capital Obligations that are not reflected in, the  
572 schedules referenced in Exhibit "C" and properly assignable to the Contractor, shall be repaid as  
573 prescribed by the WIIN Act without interest except as required by law. Consistent with Federal  
574 Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital  
575 Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the  
576 Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of  
577 the Additional Capital Obligation assigned to each Project contractor by the Secretary shall not  
578 be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B),  
579 however, will be considered under subdivision (b) of this Article. A separate agreement shall be  
580 established by the Contractor and the Contracting Officer to accomplish repayment of the  
581 Additional Capital Obligation assigned to the Contractor within the timeframe prescribed by the  
582 WIIN Act, subject to the following:

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

589 (2) If the collective Additional Capital Obligation  
590 properly assignable to the contractors exercising conversion under Section 4011 of the WIIN Act  
591 is equal to or greater than five million dollars (\$5,000,000), then the portion of such costs  
592 properly assignable to the Contractor shall be repaid as provided by applicable Federal

593 Reclamation law and Project ratesetting policy; Provided, That the reference to the amount of  
594 five million dollars (\$5,000,000) shall not be a precedent in any other context.

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

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

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

615 (2) Prior to October 1 of each Calendar Year, the Contracting Officer

616 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component  
617 for Project Water for the following Year and the computations and cost allocations upon which  
618 those Rates are based. The Contractor shall be allowed not less than two months to review and  
619 comment on such computations and cost allocations. By December 31 of each Calendar Year,  
620 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing  
621 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B".

622 (d) At the time the Contractor submits the Contractor's initial schedule for the  
623 delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract,  
624 the Contractor shall make an advance payment to the United States equal to the total amount  
625 payable pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project  
626 Water scheduled to be delivered pursuant to this Contract during the first two calendar months of  
627 the Year. Before the end of the first month and before the end of each calendar month thereafter,  
628 the Contractor shall make an advance payment to the United States, at the Rate(s) set under  
629 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract  
630 during the second month immediately following. Adjustments between advance payments for  
631 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of  
632 the following month; *Provided, That* any revised schedule submitted by the Contractor pursuant  
633 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this  
634 Contract during any month shall be accompanied with appropriate advance payment, at the Rates  
635 then in effect, to assure that Project Water is not delivered for the Contractor in advance of such  
636 payment. In any month in which the quantity of Water Delivered for the Contractor pursuant to  
637 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no  
638 additional Project Water shall be delivered for the Contractor unless and until an advance

639 payment at the Rates then in effect for such additional Project Water is made. Final adjustment  
640 between the advance payments for the Water Scheduled and payments for the quantities of Water  
641 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no  
642 later than April 30th of the following Year, or sixty (60) days after the delivery of Project Water  
643 carried over under subdivision (g) of Article 3 of this Contract if such water is not delivered by  
644 the last day of February.

645 (e) The Contractor shall also make a payment in addition to the Rate(s) in  
646 subdivision (d) of this Article to the United States for Water Delivered, at the Charges and the  
647 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
648 month of delivery; *Provided, That* the Contractor may be granted an exception from the Tiered  
649 Pricing Component pursuant to subdivision (k)(2) of this Article. The payments shall be  
650 consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the  
651 water delivery report for the subject month prepared by the Operating Non-Federal  
652 Entity/Entities or, if there is no Operating Non-Federal Entity, by the Contracting Officer. The  
653 water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered  
654 Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of  
655 Charges shall be made through the adjustment of payments due to the United States for Charges  
656 for the next month. Any amount to be paid for past due payment of Charges and the Tiered  
657 Pricing Component shall be computed pursuant to Article 19 of this Contract.

658 (f) The Contractor shall pay for any Water Delivered under subdivision (a),  
659 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to  
660 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting  
661 policies; *Provided, That* the Rate for Water Delivered under subdivision (f) of Article 3 of this

662 Contract shall be no more than the otherwise applicable Rate for Irrigation Water or M&I Water  
663 under subdivision (a) of this Article.

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

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

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

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

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

685           (k)   (1)   Beginning at such time as deliveries of Project Water in a Year  
686 exceed 80 percent of the Contract Total, then before the end of the month following the month of  
687 delivery the Contractor shall make an additional payment to the United States equal to the  
688 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water  
689 Delivered in excess of eighty (80) percent of the Contract Total, but less than or equal to ninety  
690 (90) percent of the Contract Total, shall equal the one-half of the difference between the Rate  
691 established under subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I  
692 Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the amount of  
693 Water Delivered which exceeds ninety (90) percent of the Contract Total shall equal the  
694 difference between (i) the Rate established under subdivision (a) of this Article and (ii) the  
695 Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable. For all  
696 Water Delivered pursuant to subdivision (a) of Article 3 of this Contract which is in excess of  
697 eighty (80) percent of the Contract Total, this increment shall be deemed to be divided between  
698 Irrigation Water and M&I Water in the same proportion as actual deliveries of each bear to the  
699 cumulative total Water Delivered.

700           (2)   Subject to the Contracting Officer's written approval, the  
701 Contractor may request and receive an exemption from such Tiered Pricing Component for  
702 Project Water delivered to produce a crop which the Contracting Officer determines will provide  
703 significant and quantifiable habitat values for waterfowl in fields where the water is used and the  
704 crops are produced; *Provided, That* the exemption from the Tiered Pricing Component for  
705 Irrigation Water shall apply only if such habitat values can be assured consistent with the

706 purposes of the CVPIA through binding agreements executed with or approved by the  
707 Contracting Officer prior to use of such water.

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

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

721 (m) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the  
722 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's  
723 Rates, in accordance with the applicable Project ratesetting policy, adjusted upward or  
724 downward to reflect the changed costs if any incurred by the Contracting Officer in the delivery  
725 of the transferred Project Water to the transferee's point of delivery in accordance with the then-  
726 current Project ratesetting policy. In addition, if the Contractor is receiving lower Rates and  
727 Charges because of inability to pay and is transferring Project Water to another entity whose  
728 Rates and Charges are not adjusted due to inability to pay, the Rates and Charges for transferred

729 Project Water shall be the Contractor's Rates and Charges and will not be adjusted to reflect the  
730 Contractor's inability to pay.

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

733 (o) With respect to the Rates for M&I Water the Contractor asserts that it is  
734 not legally obligated to pay any Project deficits claimed by the United States to have accrued as  
735 of the date of this Contract or deficit-related interest charges thereon. By entering into this  
736 Contract, the Contractor does not waive any legal rights or remedies that it may have with  
737 respect to such disputed issues. Notwithstanding the execution of this Contract and payments  
738 made hereunder, the Contractor may challenge in the appropriate administrative or judicial  
739 forums: (1) the existence, computation, or imposition of any deficit charges accruing during the  
740 term of the Existing Contract and any preceding interim renewal contracts, if applicable; (2)  
741 interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in  
742 the Rates; (4) the application by the United States of payments made by the Contractor under its  
743 Existing Contract and any preceding interim renewal contracts, if applicable; and (5) the  
744 application of such payments in the Rates. The Contracting Officer agrees that the Contractor  
745 shall be entitled to the benefit of any administrative or judicial ruling in favor of any Project  
746 M&I contractor on any of these issues, and credits for payments heretofore made, Provided, That  
747 the basis for such ruling is applicable to the Contractor.

748 NON-INTEREST BEARING O&M DEFICITS

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



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SALES, TRANSFERS, OR EXCHANGES OF WATER

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

(b) In order to facilitate efficient water management by means of water transfers of the type historically carried out among Project Contractors located within the same geographical area and to allow the Contractor to participate in an accelerated water transfer program during the term of this Contract, the Contracting Officer shall prepare, as appropriate, all necessary environmental documentation including, but not limited to, documents prepared pursuant to NEPA and ESA analyzing annual transfers within such geographical areas and the Contracting Officer shall determine whether such transfers comply with applicable law. Following the completion of the environmental documentation, such transfers addressed in such documentation shall be conducted with advance notice to the Contracting Officer, but shall not require prior written approval by the Contracting Officer. Such environmental documentation and the Contracting Officer’s compliance determination shall be reviewed every five years and

775 updated, as necessary, prior to the expiration of the then-existing five (5)- year period. All  
776 subsequent environmental documentation shall include an alternative to evaluate not less than the  
777 quantity of Project Water historically transferred within the same geographical area.

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

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APPLICATION OF PAYMENTS AND ADJUSTMENTS

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10. (a) The amount of any overpayment by the Contractor of the Contractor's

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O&M, capital, and deficit (if any) obligations for the Year shall be applied first to any current

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liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of

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more than \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount

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of such overpayment, at the option of the Contractor, may be credited against amounts to become

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due to the United States by the Contractor. With respect to overpayment, such refund or

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adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to

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have the right to the use of any of the Project Water supply provided for by this Contract. All

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credits and refunds of overpayments shall be made within thirty (30) days of the Contracting

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Officer obtaining direction as to how to credit or refund such overpayment in response to the

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notice to the Contractor that it has finalized the accounts for the Year in which the overpayment

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was made.

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(b) All advances for miscellaneous costs incurred for work requested by the

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Contractor pursuant to Article 24 of this Contract shall be adjusted to reflect the actual costs

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when the work has been completed. If the advances exceed the actual costs incurred, the

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difference will be refunded to the Contractor. If the actual costs exceed the Contractor's

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advances, the Contractor will be billed for the additional costs pursuant to Article 24 of this

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Contract.

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TEMPORARY REDUCTIONS – RETURN FLOWS

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11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the

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requirements of Federal law; and (ii) the obligations of the United States under existing

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contracts, or renewals thereof, providing for water deliveries from the Project; and (iii) the terms

812 and conditions of this Contract; the Contracting Officer shall make all reasonable efforts to  
813 optimize Project Water deliveries for the Contractor as provided in this Contract.

814 (b) The Contracting Officer or Operating Non-Federal Entity/Entities may  
815 temporarily discontinue or reduce the quantity of Water Delivered for the Contractor as herein  
816 provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any  
817 of the Project facilities or any part thereof necessary for the delivery of Project Water for the  
818 Contractor, but so far as feasible the Contracting Officer, or Operating Non-Federal  
819 Entity/Entities will give the Contractor due notice in advance of such temporary discontinuance  
820 or reduction, except in case of emergency, in which case no notice need be given; *Provided, That*  
821 the United States shall use its best efforts to avoid any discontinuance or reduction in such  
822 service. Upon resumption of service after such reduction or discontinuance, and if requested by  
823 the Contractor, the United States will, if possible, deliver the quantity of Project Water which  
824 would have been delivered hereunder in the absence of such discontinuance or reduction.

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

831 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

837 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting  
838 or other similar operational errors affecting the Project; drought, and other physical or natural  
839 causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer  
840 to meet current and future legal obligations, then, except as provided in subdivision (a) of Article  
841 17 of this Contract, no liability shall accrue against the United States or any of its officers,  
842 agents, or employees for any damage, direct or indirect, arising therefrom.

843 (c) In any Year in which there may occur a Condition of Shortage for any of  
844 the reasons specified in subdivision (b) of this Article, the Contracting Officer shall apportion the  
845 available Project Water supply among the Contractors and others entitled, under existing  
846 contracts and future contracts (to the extent such future contracts are permitted under subsections  
847 (a) and (b) of Section 3404 of the CVPIA) and renewals thereof, to receive Project Water  
848 consistent with the contractual obligations of the United States.

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

853 (e) By entering into this Contract, the Contractor does not waive any legal  
854 rights or remedies it may have to file or participate in any administrative or judicial proceeding  
855 contesting: (i) the sufficiency of the then-current Project M&I Water Shortage Policy; (ii) the  
856 substance of such a policy; or (iii) the applicability of such a policy. By agreeing to the  
857 foregoing, the Contracting Officer does not waive any legal defenses or remedies that it may then  
858 have to assert in such a proceeding.

859 UNAVOIDABLE GROUNDWATER PERCOLATION

860 13. (a) To the extent applicable, the Contractor shall not be deemed to have  
861 delivered Irrigation Water to Excess Lands or Ineligible Lands within the meaning of this

862 Contract if such lands are irrigated with groundwater that reaches the underground strata as an  
863 unavoidable result of the delivery of Irrigation Water by the Contractor to Eligible Lands.

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

866 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

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

872 PROTECTION OF WATER AND AIR QUALITY

873 15. (a) Omitted.

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

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

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

888 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED  
889 STATES

890 16. (a) Water or water rights now owned or hereafter acquired by the Contractor  
891 other than from the United States and Irrigation Water furnished pursuant to the terms of this

892 Contract may be simultaneously transported through the same distribution facilities of the  
893 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water  
894 and non-project water were constructed without funds made available pursuant to Federal  
895 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the  
896 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive  
897 Irrigation Water must be established through the certification requirements as specified in the  
898 Acreage Limitation Rules and Regulations (43 CFR Part 426); and (iii) the water requirements of  
899 Eligible Lands within the Contractor's Service Area can be established and the quantity of  
900 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such  
901 Eligible Lands. The Contractor and the Contracting Officer concur that the Contractor's  
902 distribution system was constructed without funds made available pursuant to Federal  
903 Reclamation law. The use of this distribution system is not subject to the provisions of this  
904 subdivision of this Article.

905 (b) Water or water rights now owned or hereafter acquired by the Contractor,  
906 other than from the United States or adverse to the Project or its contractors (i.e. non-project  
907 water), may be stored, conveyed, and/or diverted through Project facilities, subject to the  
908 completion of appropriate environmental documentation, with the approval of the Contracting  
909 Officer and the execution of any contract determined by the Contracting Officer to be necessary,  
910 consistent with the following provisions:

911 (1) The Contractor may introduce non-Project water into Project  
912 facilities and deliver said water to lands within the Contractor's Service Area, including  
913 Ineligible Lands, subject to payment to the United States and/or to any applicable Operating  
914 Non-Federal Entity of an appropriate rate as determined by the applicable Project ratesetting

915 policy, the Reclamation Reform Act of 1982, and the Project use power policy, if such  
916 Project use power policy is applicable, each as amended, modified, or superseded from time to  
917 time.

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

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

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

935 (5) After Project purposes are met, as determined by the Contracting  
936 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity  
937 of the facilities declared to be available by the Contracting Officer for conveyance and



938 transportation of non-Project water prior to any such remaining capacity being made available to  
939 non-Project contractors.

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

942 OPINIONS AND DETERMINATIONS

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

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

958 COORDINATION AND COOPERATION

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

961 with other affected Project Contractors, in order to improve the O&M of the Project. The  
962 communication, coordination, and cooperation regarding O&M shall include, but not be limited  
963 to, any action which will or may materially affect the quantity or quality of Project Water supply,  
964 the allocation of Project Water supply, and Project financial matters including, but not limited to,  
965 budget issues. The communication, coordination, and cooperation provided for hereunder shall  
966 extend to all provisions of this Contract. All parties shall retain exclusive decision making  
967 authority for all actions, opinions, and determinations to be made by the respective party.

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

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

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

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

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

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

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

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

996 CHARGES FOR DELINQUENT PAYMENTS

997 19. (a) The Contractor shall be subject to interest, administrative, and penalty  
998 charges on delinquent payments. If a payment is not received by the due date, the Contractor  
999 shall pay an interest charge on the delinquent payment for each day the payment is delinquent  
1000 beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in  
1001 addition to the interest charge, an administrative charge to cover additional costs of billing and  
1002 processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor  
1003 shall pay, in addition to the interest and administrative charges, a penalty charge for each day the  
1004 payment is delinquent beyond the due date, based on the remaining balance of the payment due  
1005 at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt  
1006 collection services associated with a delinquent payment.

1007 (b) The interest rate charged shall be the greater of either the rate prescribed  
1008 quarterly in the Federal Register by the Department of the Treasury for application to overdue  
1009 payments, or the interest rate of 0.5 percent per month. The interest rate charged will be  
1010 determined as of the due date and remain fixed for the duration of the delinquent period.

1011 (c) When a partial payment on a delinquent account is received, the amount  
1012 received shall be applied first to the penalty charges, second to the administrative charges, third  
1013 to the accrued interest, and finally to the overdue payment.

1014

EQUAL EMPLOYMENT OPPORTUNITY

1015           20.     During the performance of this Contract, the Contractor agrees as follows:

1016                   (a)     The Contractor will not discriminate against any employee or applicant for  
1017 employment because of race, color, religion, sex, sexual orientation, gender identity, or national  
1018 origin. The Contractor will take affirmative action to ensure that applicants are employed, and  
1019 that employees are treated during employment, without regard to their race, color, religion, sex,  
1020 sexual orientation, gender identity, or national origin. Such action shall include, but not be  
1021 limited to the following: employment, upgrading, demotion, or transfer; recruitment or  
1022 recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and  
1023 selection for training, including apprenticeship. The Contractor agrees to post in conspicuous  
1024 places, available to employees and applicants for employment, notices to be provided by the  
1025 Contracting Officer setting forth the provisions of this nondiscrimination clause.

1026                   (b)     The Contractor will, in all solicitations or advertisements for employees  
1027 placed by or on behalf of the Contractor, state that all qualified applicants will receive  
1028 consideration for employment without regard to race, color, religion, sex, sexual orientation,  
1029 gender identity, or national origin.

1030                   (c)     The Contractor will not discharge or in any other manner discriminate  
1031 against any employee or applicant for employment because such employee or applicant has  
1032 inquired about, discussed, or disclosed the compensation of the employee or applicant or  
1033 another employee or applicant. This provision shall not apply to instances in which an  
1034 employee who has access to the compensation information of other employees or applicants as  
1035 part of such employee's essential job functions discloses the compensation of such other  
1036 employees or applicants to individuals who do not otherwise have access to such information,  
1037 unless such disclosure is in response to a formal complaint or charge, in furtherance of an  
1038 investigation, proceeding, hearing, or action, including an investigation conducted by the  
1039 employer, or is consistent with the Contractor's legal duty to furnish information.

1040                   (d)     The Contractor will send to each labor union or representative of workers  
1041 with which it has a collective bargaining agreement or other contract or understanding, a notice,  
1042 to be provided by the Contracting Officer, advising the labor union or workers' representative of  
1043 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,  
1044 1965, and shall post copies of the notice in conspicuous places available to employees and  
1045 applicants for employment.

1046                   (e)     The Contractor will comply with all provisions of Executive Order No.  
1047 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of  
1048 Labor.

1049                   (f)     The Contractor will furnish all information and reports required by  
1050 Executive Order No. 11246 of Sept. 24, 1965, and by the rules, regulations, and orders of the  
1051 Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts  
1052 by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain

1053 compliance with such rules, regulations, and orders.

1054 (g) In the event of the Contractor's noncompliance with the nondiscrimination  
1055 clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be  
1056 canceled, terminated or suspended in whole or in part and the Contractor may be declared  
1057 ineligible for further Government contracts in accordance with procedures authorized in  
1058 Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and  
1059 remedies invoked as provided in Executive Order No. 11246 of Sept. 24, 1965 or by rule,  
1060 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1061 (h) The Contractor will include the provisions of paragraphs (a) through (g) in  
1062 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
1063 Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24,  
1064 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor  
1065 will take such action with respect to any subcontract or purchase order as may be directed by the  
1066 Secretary of Labor as a means of enforcing such provisions, including sanctions for  
1067 noncompliance: *Provided, however, That* in the event the Contractor becomes involved in, or is  
1068 threatened with, litigation with a subcontractor or vendor as a result of such direction, the  
1069 Contractor may request the United States to enter into such litigation to protect the interests of  
1070 the United States.

1071 GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

1072 21. (a) The obligation of the Contractor to pay the United States as provided in  
1073 this Contract is a general obligation of the Contractor notwithstanding the manner in which the  
1074 obligation may be distributed among the Contractor's water users and notwithstanding the default  
1075 of individual water users in their obligation to the Contractor.

1076 (b) The payment of charges becoming due pursuant to this Contract is a  
1077 condition precedent to receiving benefits under this Contract. The United States shall not make  
1078 water available to the Contractor through Project facilities during any period in which the  
1079 Contractor is in arrears in the advance payment of water rates due the United States. The  
1080 Contractor shall not deliver water under the terms and conditions of this Contract for lands or  
1081 parties that are in arrears in the advance payment of water rates as levied or established by the  
1082 Contractor.

1083 (c) With respect to subdivision (b) of this Article, the Contractor shall have no  
1084 obligation to require advance payment for water rates which it levies.

1085 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1086 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
1087 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
1088 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title

1089 III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L.  
1090 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the  
1091 applicable implementing regulations and any guidelines imposed by the U.S. Department of the  
1092 Interior and/or Bureau of Reclamation.

1093 (b) These statutes prohibit any person in the United States from being  
1094 excluded from participation in, being denied the benefits of, or being otherwise subjected to  
1095 discrimination under any program or activity receiving financial assistance from the Bureau of  
1096 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this  
1097 Contract, the Contractor agrees to immediately take any measures necessary to implement this  
1098 obligation, including permitting officials of the United States to inspect premises, programs, and  
1099 documents.

1100 (c) The Contractor makes this Contract in consideration of and for the  
1101 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other  
1102 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of  
1103 Reclamation, including installment payments after such date on account of arrangements for  
1104 Federal financial assistance which were approved before such date. The Contractor recognizes  
1105 and agrees that such Federal assistance will be extended in reliance on the representations and  
1106 agreements made in this Article and that the United States reserves the right to seek judicial  
1107 enforcement thereof.

1108 (d) Complaints of discrimination against the Contractor shall be investigated  
1109 by the Contracting Officer's Office of Civil Rights.

1110 PRIVACY ACT COMPLIANCE

1111 23. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act)  
1112 (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy Act  
1113 (43 C.F.R. § 2.45, et seq.) in maintaining Landholder certification and reporting records required  
1114 to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the  
1115 Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43  
1116 C.F.R. § 426.18.

1117 (b) With respect to the application and administration of the criminal penalty  
1118 provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's  
1119 employees who are responsible for maintaining the certification and reporting records referenced  
1120 in paragraph (a) above are considered to be employees of the Department of the Interior. See 5  
1121 U.S.C. § 552a(m).

1122 (c) The Contracting Officer or a designated representative shall provide the  
1123 Contractor with current copies of the Department of the Interior Privacy Act regulations and the  
1124 Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-  
1125 31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of

1126 information contained in the Landholders' certification and reporting records.

1127 (d) The Contracting Officer shall designate a full-time employee of the  
1128 Bureau of Reclamation to be the System Manager responsible for making decisions on denials  
1129 pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43 C.F.R. § 2.72.  
1130 The Contractor is authorized to grant requests by individuals for access to their own records.

1131 (e) The Contractor shall forward promptly to the System Manager each  
1132 proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of records  
1133 filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and provide the  
1134 System Manager with information and records necessary to prepare an appropriate response to  
1135 the requester. These requirements do not apply to individuals seeking access to their own  
1136 certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18 unless  
1137 the requester elects to cite the Privacy Act as authority for the request.

1138 (f) Upon complete payment of the Repayment Obligation by the  
1139 Contractor, this Article 23 will no longer be applicable.

1140 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1141 24. In addition to all other payments to be made by the Contractor pursuant to this  
1142 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a  
1143 bill and detailed statement submitted by the Contracting Officer to the Contractor for such  
1144 specific items of direct cost incurred by the United States for work requested by the Contractor  
1145 associated with this Contract plus indirect costs in accordance with applicable Bureau of  
1146 Reclamation policies and procedures. All such amounts referred to in this Article shall not  
1147 exceed the amount agreed to in writing in advance by the Contractor. This Article shall not  
1148 apply to costs for routine contract administration.

1149 WATER CONSERVATION

1150 25. (a) Prior to the delivery of water provided from or conveyed through  
1151 Federally constructed or Federally financed facilities pursuant to this Contract, the  
1152 Contractor shall develop a water conservation plan, as required by subsection 210(b) of the  
1153 Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and  
1154 Regulations).

1155 Additionally, an effective water conservation and efficiency program shall be based on the  
1156 Contractor's water conservation plan that has been determined by the Contracting Officer to  
1157 meet the conservation and efficiency criteria for evaluating water conservation plans  
1158 established under Federal law. The water conservation and efficiency program shall contain  
1159 definite water conservation objectives, appropriate economically feasible water conservation  
1160 measures, and time schedules for meeting those objectives. Continued Project Water delivery  
1161 pursuant to this Contract shall be contingent upon the Contractor's continued implementation of  
1162 such water conservation program. In the event the Contractor's water conservation plan or any  
1163 revised water conservation plan completed pursuant to subdivision (d) of this Article 25 have not  
1164 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which  
1165 the Contracting Officer determines are beyond the control of the Contractor, water deliveries  
1166 shall be made under this Contract so long as the Contractor diligently works with the Contracting  
1167 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor  
1168 immediately begins implementing its water conservation and efficiency program in accordance  
1169 with the time schedules therein.

1170 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of  
1171 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the  
1172 Contractor shall implement the Best Management Practices identified by the time frames issued  
1173 by the Mid-Pacific Region's then-existing conservation and efficiency criteria for such  
1174 M&I Water unless any such practice is determined by the Contracting Officer to be inappropriate  
1175 for the Contractor.

1176 (c) The Contractor shall submit to the Contracting Officer a report on the  
1177 status of its implementation of the water conservation plan on the reporting dates specified in the



1178 then existing conservation and efficiency criteria established under Federal law.

1179 (d) At five (5)-year intervals, the Contractor shall revise its water  
1180 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating  
1181 water conservation plans established under Federal law and submit such revised water  
1182 management plan to the Contracting Officer for review and evaluation. The Contracting Officer  
1183 will then determine if the water conservation plan meets Reclamation's then-existing  
1184 conservation and efficiency criteria for evaluating water conservation plans established under  
1185 Federal law.

1186 (e) If the Contractor is engaged in direct groundwater recharge, such activity  
1187 shall be described in the Contractor's water conservation plan.

1188 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1189 26. Except as specifically provided in Article 16 of this Contract, the provisions of  
1190 this Contract shall not be applicable to or affect non-project water or water rights now owned or  
1191 hereafter acquired by the Contractor or any user of such water within the Contractor's Service  
1192 Area. Any such water shall not be considered Project Water under this Contract. In addition,  
1193 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or  
1194 any water user within the Contractor's Service Area acquires or has available under any other  
1195 contract pursuant to Federal Reclamation law.

1196 OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY(IES)

1197 27. (a) The O&M of a portion of the Project facilities which serve the Contractor,  
1198 and responsibility for funding a portion of the costs of such O&M, have been transferred to two  
1199 Operating Non-Federal Entities by separate agreement between the United States and the  
1200 Operating Non-Federal Entities. Those separate agreements shall not interfere with or affect the

1201 rights or obligations of the Contractor or the United States hereunder. Specifically, portions of  
1202 the Delta-Mendota Canal, the San Luis Canal and other related facilities are operated by the San  
1203 Luis & Delta Mendota Water Authority and the Friant-Kern Canal and related facilities are  
1204 operated by the Friant Water Authority.

1205 (b) The Contracting Officer has previously notified the Contractor in writing  
1206 that the O&M of a portion of the Project facilities which serve the Contractor has been  
1207 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly  
1208 to the applicable Operating Non-Federal Entity(ies), or to any successor(s) approved by the  
1209 Contracting Officer under the terms and conditions of the separate agreement(s) between the  
1210 United States and the Operating Non-Federal Entity(ies) described in subdivision (a) of this  
1211 Article, all rates, charges, or assessments of any kind, including any assessment for reserve  
1212 funds, which the Operating Non-Federal Entity(ies) or such successor(s) determines, sets, or  
1213 establishes for the O&M of the portion of the Project facilities operated and maintained by the  
1214 Operating Non-Federal Entity or such successor. Such direct payments to the Operating Non-  
1215 Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly  
1216 to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing  
1217 Component(s) except to the extent the Operating Non-Federal Entity collects payments on behalf  
1218 of the United States in accordance with the separate agreement identified in subdivision (a) of  
1219 this Article.

1220 (c) For so long as the O&M of any portion of the Project facilities serving the  
1221 Contractor is performed by the Operating Non-Federal Entity(ies), or any successor(s) thereto,  
1222 the Contracting Officer shall adjust those components of the Rates for Water Delivered under  
1223 this Contract representing the cost associated with the activity being performed by the Operating

1224 Non-Federal Entity(ies) or its (their) successor(s).

1225 (d) In the event the O&M of the Project facilities operated and maintained by  
1226 the Operating Non-Federal Entity(ies) is re-assumed by the United States during the term of this  
1227 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the  
1228 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the  
1229 Contractor for Project Water under this Contract representing the O&M costs of the portion of  
1230 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the  
1231 absence of written notification from the Contracting Officer to the contrary, pay the Rates,  
1232 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the  
1233 United States in compliance with Article 7 of this Contract.

1234 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1235 28. The expenditure or advance of any money or the performance of any obligation of  
1236 the United States under this Contract shall be contingent upon appropriation or allotment of  
1237 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any  
1238 obligations under this Contract. No liability shall accrue to the United States in case funds are  
1239 not appropriated or allotted.

1240 BOOKS, RECORDS, AND REPORTS

1241 29. (a) The Contractor shall establish and maintain accounts and other books and  
1242 records pertaining to administration of the terms and conditions of this Contract, including the  
1243 Contractor's financial transactions; water supply data; project operations, maintenance, and  
1244 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop  
1245 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting  
1246 Officer may require Reports shall be furnished to the Contracting Officer in such form and on  
1247 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws  
1248 and regulations, each party to this Contract shall have the right during office hours to examine  
1249 and make copies of the other party's books and records relating to matters covered by this  
1250 Contract.

1251 (b) Notwithstanding the provisions of subdivision (a) of this Article, no  
1252 books, records, or other information shall be requested from the Contractor by the Contracting

1253 Officer unless such books, records, or information are reasonably related to the administration or  
1254 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
1255 time within which to provide the requested books, records, or information.

1256 (c) At such time as the Contractor provides information to the Contracting Officer  
1257 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the  
1258 Operating Non-Federal Entity(ies).

1259 ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

1260 30. (a) The provisions of this Contract shall apply to and bind the successors and  
1261 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1262 therein by either party shall be valid until approved in writing by the other party.

1263 (b) The assignment of any right or interest in this Contract by either party  
1264 shall not interfere with the rights or obligations of the other party to this Contract absent the  
1265 written concurrence of said other party.

1266 (c) The Contracting Officer shall not unreasonably condition or withhold  
1267 approval of any proposed assignment.

1268 SEVERABILITY

1269 31. In the event that a person or entity who is neither (i) a party to a Project contract,  
1270 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor  
1271 (iii) an association or other form of organization whose primary function is to represent parties to  
1272 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1273 enforceability of a provision included in this Contract and said person, entity, association, or  
1274 organization obtains a final court decision holding that such provision is legally invalid or  
1275 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),  
1276 the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of

1277 such final court decision identify by mutual agreement the provisions in this Contract which  
1278 must be revised and (ii) within three months thereafter promptly agree on the appropriate  
1279 revision(s). The time periods specified above may be extended by mutual agreement of the  
1280 parties. Pending the completion of the actions designated above, to the extent it can do so  
1281 without violating any applicable provisions of law, the United States shall continue to make the  
1282 quantities of Project Water specified in this Contract available to the Contractor pursuant to the  
1283 provisions of this Contract which were not found to be legally invalid or unenforceable in the  
1284 final court decision.

1285 RESOLUTION OF DISPUTES

1286 32. Should any dispute arise concerning any provisions of this Contract, or the  
1287 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to  
1288 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting  
1289 Officer referring any matter to the Department of Justice, the party shall provide to the other  
1290 party thirty (30) days written notice of the intent to take such action; *Provided, That* such notice  
1291 shall not be required where a delay in commencing an action would prejudice the interests of the  
1292 party that intends to file suit. During the thirty (30) day notice period, the Contractor and the  
1293 Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as  
1294 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the  
1295 Contractor or the United States may have.

1296 OFFICIALS NOT TO BENEFIT

1297 33. No Member of or Delegate to the Congress, Resident Commissioner, or official of  
1298 the Contractor shall benefit from this Contract other than as a water user or landowner in the  
1299 same manner as other water users or landowners.



1324 RECLAMATION REFORM ACT OF 1982

1325 36. (a) Upon a Contractor's compliance with and discharge of the Repayment  
1326 Obligation pursuant to this Contract, subsections (a) and (b) of Section 213 of the Reclamation  
1327 Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

1328 (b) The obligation of a Contractor to pay the Additional Capital Obligation  
1329 shall not affect the Contractor's status as having repaid all of the construction costs assignable to  
1330 the Contractor or the applicability of subsections (a) and (b) of Section 213 of the Reclamation  
1331 Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

1332 CERTIFICATION OF NONSEGREGATED FACILITIES

1333 37. The Contractor hereby certifies that it does not maintain or provide for its  
1334 employees any segregated facilities at any of its establishments and that it does not permit its  
1335 employees to perform their services at any location under its control where segregated facilities  
1336 are maintained. It certifies further that it will not maintain or provide for its employees any  
1337 segregated facilities at any of its establishments and that it will not permit its employees to  
1338 perform their services at any location under its control where segregated facilities are  
1339 maintained. The Contractor agrees that a breach of this certification is a violation of the Equal  
1340 Employment Opportunity clause in this Contract. As used in this certification, the term  
1341 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,  
1342 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,  
1343 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing  
1344 facilities provided for employees which are segregated by explicit directive or are in fact  
1345 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,  
1346 disability, or otherwise. The Contractor further agrees that (except where it has obtained  
1347 identical certifications from proposed subcontractors for specific time periods) it will obtain  
1348 identical certifications from proposed subcontractors prior to the award of subcontracts  
1349 exceeding \$10,000 which are not exempt from the provisions of the Equal Employment  
1350 Opportunity clause; that it will retain such certifications in its files; and that it will forward the  
1351 following notice to such proposed subcontractors (except where the proposed subcontractors  
1352 have submitted identical certifications for specific time periods):

1353 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR  
1354 CERTIFICATIONS OF NONSEGREGATED FACILITIES

1355 A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract  
1356 exceeding \$10,000 which is not exempt from the provisions of the Equal Employment  
1357 Opportunity clause. The certification may be submitted either for each subcontract or for all  
1358 subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for

1359 making false statements in offers is prescribed in 18 U.S.C. § 1001.

1360 NOTICES

1361 38. Any notice, demand, or request authorized or required by this Contract shall be  
1362 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
1363 delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno,  
1364 California 93721 and on behalf of the United States, when mailed, postage prepaid, or delivered  
1365 to the Director of Public Works and Planning of the County of Fresno, 2220 Tulare Street 6<sup>th</sup>  
1366 Floor, Fresno, CA 93721. The designation of the addressee or the address may be changed by  
1367 notice given in the same manner as provided in this article for other notices.

1368 MEDIUM FOR TRANSMITTING PAYMENT

1369 39. (a) All payments from the Contractor to the United States under this Contract  
1370 shall be by the medium requested by the United States on or before the date payment is due. The  
1371 required method of payment may include checks, wire transfers, or other types of payment  
1372 specified by the United States.

1373 (b) Upon execution of the Contract, the Contractor shall furnish the  
1374 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose  
1375 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising  
1376 out of the Contractor's relationship with the United States.

1377 CONTRACT DRAFTING CONSIDERATIONS

1378 40. This amended Contract has been negotiated and reviewed by the parties hereto,  
1379 each of whom is sophisticated in the matters to which this amended Contract pertains. The  
1380 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by  
1381 the parties, and no one party shall be considered to have drafted the stated Articles. Single-  
1382 spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

1383 CONFIRMATION OF CONTRACT

1384 41. Promptly after the execution of this amended Contract, the Contractor shall  
1385 provide to the Contracting Officer a certified copy of a final decree of a court of competent  
1386 jurisdiction in the State of California, confirming the proceedings on the part of the Contractor  
1387 for the authorization of the execution of this amended Contract. This amended Contract shall not  
1388 be binding on the United States until the Contractor secures a final decree.





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

CONTRACT BETWEEN THE UNITED STATES  
AND  
THE COUNTY OF FRESNO  
PROVIDING FOR PROJECT WATER SERVICE  
FROM DELTA DIVISION AND FACILITIES REPAYMENT

Exhibits

Exhibit A – Map of Contractor’s Service Area

*This Exhibit is unchanged from current Contract..*

Exhibit B – Rates and Charges



*This Exhibit template is unchanged from current Contract and is updated annually. Rate Schedules may be found at: <https://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>*

Exhibit C – Repayment Obligation

*This Exhibit template was developed during the WIIN Act Negotiations. Relevant data will be incorporated upon contract execution.*

# EXHIBIT A



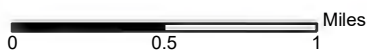
-  District Boundary
-  Contractor's Service Area

## County of Fresno

Contract No. 14-06-200-8292A-IR5-P  
Exhibit A



— BUREAU OF —  
RECLAMATION



**EXHIBIT B**  
**COUNTY OF FRESNO**  
**2021 Rates and Charges**  
**(Per Acre-Foot)**

	<b>Water</b> (Through Banks PP)	<b>M&amp;I Water</b> (Through Banks PP)
<b>COST-OF-SERVICE (COS) RATES</b>		
Construction Cost	\$ 29.29	\$ -
O&M Components		
Water Marketing	\$ 11.68	\$ 8.97
Storage	\$ 16.70	\$ 24.62
Direct Pumping	\$ 12.91	\$ 12.91
Deficit Cost	\$ -	\$ 119.16
<b>TOTAL COS RATE</b>	<b>\$ 70.58</b>	<b>\$ 165.66</b>
<b>IRRIGATION FULL COST RATE</b>		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$ 90.63	\$ -
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	\$ 106.86	\$ -
<b>M&amp;I FULL COST RATE</b>		<b>\$ 165.66</b>
<b>CHARGES AND ASSESSMENTS</b> <i>(Payment in addition to COS rates)</i>		
P.L. 102-575 Surcharges		
Restoration Fund Payment [Section 3407(d)(2)(A)]	\$ 11.11	\$ 22.23
P.L. 106-377 Assessments		
Trinity Public Utilities District [Appendix B, Section 203]	\$ 0.15	\$ 0.15

**EXPLANATORY NOTES**

Additional details of the rate components are available on the Internet at

<http://www.usbr.gov/mp/cvpwaterrates/ratebooks/index.html>

# Exhibit C<sup>@</sup>

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

### Unpaid Construction Cost from the 2021 Water Rate Books\*

**Contractor:** County of Fresno  
**Facility:** Cross Valley Canal  
**Contract:** 14-06-200-8292A-IR5-P

Irrigation Construction Cost (2021 Irrigation Ratebook, Schedule A-2Ba)			
	Unpaid Cost		Discount
Construction Cost	\$ 144,335		
2020 Repayment (Estimate) **	\$ 13,725		
Adjusted Construction Cost	\$ 130,610	\$ 122,777	
Intertie Construction Cost (N/A):	\$ -	\$ -	
<b>Total</b>	<b>\$ 130,610</b>	<b>\$ 122,777</b>	
If Paid in Installments (Used 20 yr CMT)			
	Due****		
Payment 1	7/1/2021	\$ 31,570	
Payment 2	7/1/2022	\$ 31,570	
Payment 3	7/1/2023	\$ 31,570	
Payment 4	7/1/2024	\$ 31,570	
<b>Total Installment Payments</b>		<b>\$ 126,281</b>	
20 yr CMT Rates - 05/18/2021 (to be adjusted to effective date of contract) <sup>@</sup>		2.270%	
Discount Rate (1/2 of the Treasury Rate per the WIIN Act, Section 4011(a)(2)(A))		1.135%	

M&I Construction Cost (2021 M&I Ratebook, Sch A-2Ba)	
	Unpaid Cost
Construction Cost:	\$ (10,294)
2020 Repayment (Estimate) **	\$ -
<b>Adjusted Construction Cost***:</b>	<b>\$ (10,294)</b>

**Calculation Support:** Irrigation Lump Sum or First Payment\*\*\*\* 7/1/2021  
Days Until the End of the Fiscal Year 91

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
2021	\$ 130,610	\$ 13,061	\$ 12,878	\$ -	\$ -	\$ -	\$ 12,878
2022	\$ 117,549	\$ 13,061	\$ 12,769	\$ -	\$ -	\$ -	\$ 12,769
2023	\$ 104,488	\$ 13,061	\$ 12,626	\$ -	\$ -	\$ -	\$ 12,626
2024	\$ 91,427	\$ 13,061	\$ 12,484	\$ -	\$ -	\$ -	\$ 12,484
2025	\$ 78,366	\$ 13,061	\$ 12,344	\$ -	\$ -	\$ -	\$ 12,344
2026	\$ 65,305	\$ 13,061	\$ 12,206	\$ -	\$ -	\$ -	\$ 12,206
2027	\$ 52,244	\$ 13,061	\$ 12,069	\$ -	\$ -	\$ -	\$ 12,069
2028	\$ 39,183	\$ 13,061	\$ 11,933	\$ -	\$ -	\$ -	\$ 11,933
2029	\$ 26,122	\$ 13,061	\$ 11,799	\$ -	\$ -	\$ -	\$ 11,799
2030	\$ 13,061	\$ 13,061	\$ 11,667	\$ -	\$ -	\$ -	\$ 11,667
2031-63				\$ -	\$ -	\$ -	\$ -
<b>Total, Lump Sum Payment</b>		<b>\$ 122,777</b>				<b>\$ -</b>	<b>\$ 122,777</b>

Amount of Reduction, Lump Sum \$ 7,833 \$ - \$ 7,833

\* 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.

\*\* 2020 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.

<sup>@</sup>To be updated. The WIIN Act requires us to have a Constant Maturity Treasury rate based on the effective date of the contract.

**Exhibit "B"**  
**CEQA Findings of Fact**

## **Exhibit B**

### **CEQA Findings of Fact**

#### **Cross Valley Contractors Conversion of Water Supply Contracts and Renewal of Conveyance Contracts**

*State Clearinghouse No. 2020100075*

#### **I. Introduction**

Lower Tule River Irrigation District (the “District”) is the lead agency for, by each Cross Valley Contractor: (1) the approval and execution of a contract with the United States, Department of Interior, Bureau of Reclamation (“Reclamation”) that converts, pursuant to Section 4011(a)(1) of the Water Infrastructure Improvement for the Nation Act, Public Law 114-322, 130 Stat. 1628 (the “WIIN Act”), the CV Contractor's existing contract for Project Water from the Central Valley Project (“CVP”) to a repayment contract authorizing prepayment of outstanding CVP construction costs; and (2) the approval and execution of a contract with Reclamation and the State of California, Department of Water Resources (“DWR”) that renews and updates the terms of an existing contract for the conveyance of the CV Contractor's CVP water until 2035 (the “Project”).

All other agencies with jurisdiction over aspects of a project are considered to be responsible agencies for purposes of CEQA.

The Project will allow the CV Contractors to continue receiving CVP Project Water in the manner consistent with current and historical practices.

CV Contractors have three-party contracts with Reclamation and DWR to receive water from the CVP. Under the current three-party water service contracts, Reclamation delivers CVP Project Water to the Sacramento/San Joaquin Delta (“Delta”), where it is pumped from the Delta and conveyed south. Because of capacity limitations in CVP facilities in the Delta and conveyance limitations, the water has historically been pumped and conveyed from the Delta by DWR in State Water Project (“SWP”) facilities.

The Cross-Valley Canal (“CVC”) is a water conveyance facility in the southern San Joaquin Valley that extends from the California Aqueduct near Tupman, east to the Kern River. It can convey water in either direction depending on the operation of the canal. The CVC is used to convey irrigation water to the seven CV Contractors, which are located along the east side of the San Joaquin Valley within Fresno, Kings, Tulare, and Kern counties.

Each of the seven CV Contractors is a CVP water contractor. That is, each CV Contractor is currently a party to its own separate three party contract with both Reclamation and DWR to receive CVP Project Water and then convey this water. Under the current three-party contracts, Reclamation delivers the CVP water to the Sacramento/San Joaquin Delta (Delta), where it is pumped from the Delta and conveyed south. Because of capacity limitations in the CVP facilities in the Delta, the water has historically been pumped and conveyed from the Delta by DWR in State Water Project (SWP) facilities.

The CV Contractors are located physically along the Friant-Kern Canal (FKC) and not directly connected with the CVC. Because the CV Contractors are not directly connected to the CVC, their CVP water is delivered predominately through transfers and exchanges of water with other water districts or agencies. Delivery of the CV Contractors' CVP water may be, and has been, also made directly to CV Contractors by delivery through the CVC and then into the FKC, where it is pumped from south to north over a series of check structures (Shafter Check, Poso Check & Woollomes Check).

## **II. Environmental Review of the Project**

The District as lead agency prepared a Final Environmental Impact Report for the Cross Valley Contractors' Conversion of Water Supply Contracts and Renewal of Conveyance Contracts ("Final EIR") in accordance with the California Environmental Quality Act, Public Resources Code Section 21000 et. seq. ("CEQA") to evaluate the potential environmental impacts associated the Project.

## **III. Objectives of the Proposed Action**

The objectives of the CV Contractors' current water supply and conveyance contracts are:

- Avoid long-term overdraft by achieving a balanced groundwater budget;
- Maintain a diversified water supply, sufficient to supply water for all uses, even during supply shortages;
- Integrate groundwater management with use of CVP and other surface water supplies as available;
- Make use of current conveyance and distribution systems and facilities to fully utilize all water supplies;
- Avoid or correct groundwater levels that are too low to support existing wells;
- Maximize cropland preservation; and
- Maximize the efficiency of delivery, conveyance, and use of CVP water through direct delivery and exchanges of CVP water.

The primary objective of the proposed Project is to continue each of these objectives, by allowing the CV Contractors to continue receiving CVP water in the manner consistent with current and historical practices.

## **IV. General Findings**

The FEIR identifies no significant effects for the proposed Project. Adverse but less-than-significant effects do not require mitigation, nor do they require findings be made. Because there are no significant effects for the proposed Project, no Mitigation Monitoring and Reporting Program (MMRP) is required to mitigate significant environmental impacts, nor is a statement of overriding considerations required for the proposed Project.

### **A. Procedural Findings**

The District finds as follows:



1. Based on the nature and scope of the proposed Project, the Board of Directors of the District determined, based on substantial evidence, that the proposed Project may have a significant effect on the environment and prepared an EIR for the proposed Project. The Draft EIR for the Cross Valley Contractors' Conversion of Water Supply Contracts and Renewal of Conveyance Contracts ("Draft EIR") was prepared, noticed, published, circulated, reviewed, and completed in full compliance with CEQA and the CEQA Guidelines (14 Cal. Code Regs., §§ 15000 et seq.) as follows:
  - a) A Notice of Preparation (NOP) for the Draft EIR for review and comment by the public, responsible, and reviewing agencies, was made available by the District to interested entities and the State Clearinghouse (State Clearinghouse No. 2020100075.) on October 5, 2020. A public scoping meeting was held on October 26, 2020, and the public comment period closed on November 4, 2020.
  - b) A Notice of Availability (NOA) and copies of the Draft EIR were made available for review and comment on April 6, 2021 to those public agencies that have jurisdiction by law with respect to the Project, or which exercise authority over resources that may be affected by the Project, and to other interested parties and agencies as required by law. The comments of such persons and agencies and the general public were sought on the Draft EIR for a 45-day review period from April 6, 2021 to May 21, 2021.
  - c) The NOA stated that the District had completed the Draft EIR and that copies were available at the District offices at 357 E. Olive Avenue, Tipton, CA 93272, and on the District website at [www.ltrid.org](http://www.ltrid.org), or by requesting an electronic copy from the District at the email address [elimas@ltrid.org](mailto:elimas@ltrid.org).
2. Following closure of the public comment period, all comments received on the Draft EIR during the comment period, the District's written responses to those comments, and additional information added by the District were added to the Draft EIR to produce the Final EIR.
3. The Final EIR was published on September 9, 2021. The Final EIR consists of the following documents:
  - DEIR (text and associated appendices, dated April 6, 2021);
  - Comments, Responses to Comments on the Draft EIR, and revisions to the Draft EIR.
4. As required by Section 15088(b) of the CEQA Guidelines, public agencies that commented on the Draft EIR were provided at least 10 days to review the proposed responses prior to the date for consideration of the Final EIR for certification.

**B. Changes to the Draft EIR**

The Draft EIR has been the subject of review and comment by the public and responsible agencies prior to the adoption of these Findings. In the course of responding to comments received during the public review and comment period for the Draft EIR, certain portions of the Draft EIR have been modified and some new information obtained after the Draft EIR was released for public review has been added. The Draft EIR has been the subject of review and comment by the public and responsible agencies prior to the adoption of these Findings. None of this information has revealed the existence of: (1) a significant new environmental impact that would result from the Project or an adopted mitigation measure; (2) a substantial increase in the severity of an environmental impact; (3) a feasible project alternative or mitigation measure not adopted that is considerably different from others analyzed in the Draft EIR that would clearly lessen the significant environmental impacts of the Project; or (4) information that indicates that the public was deprived of a meaningful opportunity to review and comment on the Draft EIR. The District finds that the changes and modifications made to the Draft EIR after the Draft EIR was circulated for public review and comment do not collectively or individually constitute significant new information within the meaning of Public Resources Code §21092.1 and CEQA Guidelines §15088.5.

**C. Evidentiary Basis for Findings**

These Findings are based upon substantial evidence in the entire record before the Board of Directors of the District. The references to the Draft EIR and Final EIR set forth in the Findings are for ease of reference and are not intended to provide an exhaustive list of the evidence relied upon for these Findings.

**D. Location and Custodian of Records.**

Pursuant to Public Resource Code §15091, the District is the custodian of the documents and other material that constitute the record of proceedings upon which the decision is based, and such documents and other materials are located at the District's offices at 357 E. Olive Avenue, Tipton, CA. A copy of the Final EIR is also available for review at the District's website ([www.ltrid.org](http://www.ltrid.org)).

**E. Findings on Environmental Impacts**

For resources with potentially significant impacts, the District reviewed and considered the information contained in the Final EIR, which does not identify one or more significant environmental effects of the Project. Because there are no significant effects for the proposed Project, no Mitigation Monitoring and Reporting Program required to mitigate significant environmental impacts, nor is a statement of overriding considerations required for the proposed Project.