

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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1 THIS CONTRACT, made this 16th day of November, 2021, 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:

16 EXPLANATORY RECITALS

17 [1st] WHEREAS, the United States has constructed and is operating the California
18 Central Valley Project (Project), for diversion, storage, carriage, distribution and beneficial use,
19 for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation,
20 protection and restoration, generation and distribution of electric energy, salinity control,
21 navigation and other beneficial uses, of waters of the Sacramento River, the American River, the
22 Trinity River, and the San Joaquin River and their tributaries; and

23 [2nd] WHEREAS, the United States constructed the Project facilities, which will be
24 used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract;
25 and

26 [3rd] WHEREAS, as provided herein, Project Water may be made available for the
27 Contractor in the Sacramento-San Joaquin Delta and/or from the Friant Division and delivered to
28 the Contractor through appropriate federal, state, joint-use and/or local facilities; and

29 [4th] WHEREAS, the Department of Water Resources of the State of California
30 (DWR) is engaged in the operation of the State Water Project (SWP) pursuant to the laws of the
31 State of California involving the development, transportation, and delivery of water supplies to
32 public agencies throughout the State of California; and

33 [5th] WHEREAS, the Cross Valley Canal, connecting the California Aqueduct and the
34 Friant-Kern Canal in Kern County, has been constructed by the Contractor and others at no cost
35 to the United States; and

36 [6th] WHEREAS, the Contractor has the right to use the Cross Valley Canal for
37 conveyance of the Project Water furnished hereunder; and

38 [7th] WHEREAS, the rights to Project Water were acquired by the United States
39 pursuant to California law for operation of the Project; and

40 [8th] 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 [9th] 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, 2020 through February 28, 2022; and

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

51 [11th] 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 [12th] 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 [13th] 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 [14th] 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 [15th] 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 [16th] WHEREAS, the United States has determined that the Contractor has fulfilled all
80 of its obligations under the Existing Contract; and

81 [17th] 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 [18th] 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 [19th] 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 [20th] 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 [21st] 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 [22nd] WHEREAS, the parties intend by this Contract to develop a more cooperative
103 relationship in order to achieve their mutual goals; and

104 [23rd] 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 [24th] 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 [25th] WHEREAS, the United States and the Contractor understand that DWR is willing
115 to convey such water through State Facilities; and

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

118 [27th] 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 from January 1 through December
132 31, 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 in Kern County constructed by the Contractor and others, which canal is currently operated by
150 Kern County Water Agency, to deliver water from the California Aqueduct;

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 the Final 2021 Ratebooks, as adjusted to reflect payments not reflected in such schedule. The
164 Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in
165 Exhibit “C”, which is incorporated herein by reference;

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

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

178 (o) “Irrigation Full Cost Water Rate” shall mean the Full Cost Rate applicable
179 to the delivery of Irrigation Water;

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

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

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

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

192 (s) “M&I Full Cost Water Rate” shall mean the Full Cost Rate applicable to
193 the delivery of M&I Water;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

247 TERM OF CONTRACT – RIGHT TO USE OF WATER

248 2. (a) This Contract shall be effective December 1, 2021 hereinafter known as
249 the “Effective Date”, and shall continue so long as the Contractor pays applicable Rates and
250 Charges under this Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939
251 (53 Stat. 1195) as applicable, and applicable law;

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

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

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

269 time by mutual consent of the parties hereto.

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

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

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

281 WATER TO BE MADE AVAILABLE AND DELIVERED FOR THE CONTRACTOR

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

387 TIME FOR DELIVERY OF WATER

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

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

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

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

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

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

420 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

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

432 (b) Omitted.

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

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

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

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

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

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

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

477 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

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

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

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

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

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

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

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

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

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

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

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

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

546 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth
547 as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual
548 installments (Irrigation Only) to be repaid no later than three (3) years after the Effective Date as
549 set forth in Exhibit "C". The Repayment Obligation is due in lump sum by January 31, 2022 as
550 provided by the WIIN Act. The Contractor must provide appropriate notice to the Contracting
551 Officer in writing no later than thirty (30) days prior to the Effective Date, if electing to repay the
552 amount due using the lump sum alternative. If such notice is not provided by such date, the
553 Contractor shall be deemed to have elected the installment payment alternative, in which case,
554 the first such payment shall be made no later than January 31, 2022. The second payment shall
555 be made no later than the first anniversary of the first payment date. The third payment shall be
556 made no later than the second anniversary of the first payment date. The final payment shall be
557 made no later than December 1, 2024. If the installment payment option is elected by the
558 Contractor, the Contractor may pre-pay the remaining portion of the Repayment Obligation by
559 giving the Contracting Officer sixty (60) days written notice, in which case, the Contracting
560 Officer shall re-compute the remaining amount due to reflect the pre-payment using the same
561 methodology as was used to compute the initial annual installment payment amount, which is
562 illustrated in Exhibit "C". Notwithstanding any Additional Capital Obligation that may later be
563 established, receipt of the Contractor's payment of the Repayment Obligation to the United
564 States shall fully and permanently satisfy the Existing Capital Obligation.

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

569 Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the
570 Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of
571 the Additional Capital Obligation assigned to each Project contractor by the Secretary shall not
572 be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B),
573 however, will be considered under subdivision (b) of this Article. A separate agreement shall be
574 established by the Contractor and the Contracting Officer to accomplish repayment of the
575 Additional Capital Obligation assigned to the Contractor within the timeframe prescribed by the
576 WIIN Act, subject to the following:

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

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

589 (b) In the event that the final cost allocation referenced in Section 4011(b) of
590 the WIIN Act determines that the costs properly assignable to the Contractor are greater than
591 what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining

592 allocated costs. The term of such additional repayment contract shall be not less than one (1)
593 year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate
594 of repayment of such amount may be developed by the Contractor and Contracting Officer. In
595 the event that the final cost allocation indicates that the costs properly assignable to the
596 Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such
597 overpayment as an offset against any outstanding or future obligations of the Contractor, with the
598 exception of Restoration Fund charges pursuant to Section 3407(d) of Pub. L. 102-575.

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

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

609 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
610 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component
611 for Project Water for the following Year and the computations and cost allocations upon which
612 those Rates are based. The Contractor shall be allowed not less than two months to review and
613 comment on such computations and cost allocations. By December 31 of each Calendar Year,
614 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing

615 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit “B”.

616 (d) At the time the Contractor submits the Contractor’s initial schedule for the
617 delivery of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract,
618 the Contractor shall make an advance payment to the United States equal to the total amount
619 payable pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project
620 Water scheduled to be delivered pursuant to this Contract during the first two calendar months of
621 the Year. Before the end of the first month and before the end of each calendar month thereafter,
622 the Contractor shall make an advance payment to the United States, at the Rate(s) set under
623 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
624 during the second month immediately following. Adjustments between advance payments for
625 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of
626 the following month; *Provided, That* any revised schedule submitted by the Contractor pursuant
627 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
628 Contract during any month shall be accompanied with appropriate advance payment, at the Rates
629 then in effect, to assure that Project Water is not delivered for the Contractor in advance of such
630 payment. In any month in which the quantity of Water Delivered for the Contractor pursuant to
631 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
632 additional Project Water shall be delivered for the Contractor unless and until an advance
633 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
634 between the advance payments for the Water Scheduled and payments for the quantities of Water
635 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
636 later than April 30th of the following Year, or sixty (60) days after the delivery of Project Water
637 carried over under subdivision (g) of Article 3 of this Contract if such water is not delivered by

638 the last day of February.

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

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

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

660 (h) All revenues received by the United States from the Contractor relating to

661 the delivery of Project Water or the delivery of non-Project water through Project facilities shall
662 be allocated and applied in accordance with Federal Reclamation law and the associated rules or
663 regulations, and the then-current Project ratesetting policies for M&I Water or Irrigation Water.

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

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

679 (k) (1) Beginning at such time as deliveries of Project Water in a Year
680 exceed 80 percent of the Contract Total, then before the end of the month following the month of
681 delivery the Contractor shall make an additional payment to the United States equal to the
682 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
683 Delivered in excess of eighty (80) percent of the Contract Total, but less than or equal to ninety

684 (90) percent of the Contract Total, shall equal the one-half of the difference between the Rate
685 established under subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I
686 Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the amount of
687 Water Delivered which exceeds ninety (90) percent of the Contract Total shall equal the
688 difference between (i) the Rate established under subdivision (a) of this Article and (ii) the
689 Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is applicable. For all
690 Water Delivered pursuant to subdivision (a) of Article 3 of this Contract which is in excess of
691 eighty (80) percent of the Contract Total, this increment shall be deemed to be divided between
692 Irrigation Water and M&I Water in the same proportion as actual deliveries of each bear to the
693 cumulative total Water Delivered.

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

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

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

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

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

727 (o) With respect to the Rates for M&I Water the Contractor asserts that it is
728 not legally obligated to pay any Project deficits claimed by the United States to have accrued as
729 of the date of this Contract or deficit-related interest charges thereon. By entering into this

730 Contract, the Contractor does not waive any legal rights or remedies that it may have with
731 respect to such disputed issues. Notwithstanding the execution of this Contract and payments
732 made hereunder, the Contractor may challenge in the appropriate administrative or judicial
733 forums: (1) the existence, computation, or imposition of any deficit charges accruing during the
734 term of the Existing Contract and any preceding interim renewal contracts, if applicable; (2)
735 interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in
736 the Rates; (4) the application by the United States of payments made by the Contractor under its
737 Existing Contract and any preceding interim renewal contracts, if applicable; and (5) the
738 application of such payments in the Rates. The Contracting Officer agrees that the Contractor
739 shall be entitled to the benefit of any administrative or judicial ruling in favor of any Project
740 M&I contractor on any of these issues, and credits for payments heretofore made, *Provided, That*
741 the basis for such ruling is applicable to the Contractor.

742 NON-INTEREST BEARING O&M DEFICITS

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

746 SALES, TRANSFERS, OR EXCHANGES OF WATER

747 9. (a) The right to receive Project Water provided for in this Contract may be
748 sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of
749 California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,
750 and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project
751 Water under this Contract may take place without the prior written approval of the Contracting
752 Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or

753 exchanges shall be approved absent all appropriate environmental documentation including but
754 not limited to documents prepared pursuant to NEPA and ESA. Such environmental
755 documentation should include, as appropriate, an analysis of groundwater impacts and economic
756 and social effects, including environmental justice, of the proposed water transfers on both the
757 transferor and transferee.

758 (b) In order to facilitate efficient water management by means of water
759 transfers of the type historically carried out among Project Contractors located within the same
760 geographical area and to allow the Contractor to participate in an accelerated water transfer
761 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,
762 all necessary environmental documentation including, but not limited to, documents prepared
763 pursuant to NEPA and ESA analyzing annual transfers within such geographical areas and the
764 Contracting Officer shall determine whether such transfers comply with applicable law.
765 Following the completion of the environmental documentation, such transfers addressed in such
766 documentation shall be conducted with advance notice to the Contracting Officer, but shall not
767 require prior written approval by the Contracting Officer. Such environmental documentation
768 and the Contracting Officer's compliance determination shall be reviewed every five years and
769 updated, as necessary, prior to the expiration of the then-existing five (5)- year period. All
770 subsequent environmental documentation shall include an alternative to evaluate not less than the
771 quantity of Project Water historically transferred within the same geographical area.

772 (c) For a water transfer to qualify under subdivision (b) of this Article, such
773 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three
774 years, for M&I use, groundwater recharge, groundwater banking, similar groundwater activities,
775 surface water storage, or fish and wildlife resources; not lead to land conversion; and be

776 delivered to established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur
777 within a single Year; (iii) occur between a willing seller and a willing buyer; (iv) convey water
778 through existing facilities with no new construction or modifications to facilities and be between
779 existing Project Contractors and/or the Contractor and the United States, Department of the
780 Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and
781 requirements imposed for protection of the environment and Indian Trust Assets, as defined
782 under Federal law.

783 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

796 (b) All advances for miscellaneous costs incurred for work requested by the
797 Contractor pursuant to Article 24 of this Contract shall be adjusted to reflect the actual costs
798 when the work has been completed. If the advances exceed the actual costs incurred, the

799 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
800 advances, the Contractor will be billed for the additional costs pursuant to Article 24 of this
801 Contract.

802 TEMPORARY REDUCTIONS – RETURN FLOWS

803 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the
804 requirements of Federal law; and (ii) the obligations of the United States under existing
805 contracts, or renewals thereof, providing for water deliveries from the Project; and (iii) the terms
806 and conditions of this Contract; the Contracting Officer shall make all reasonable efforts to
807 optimize Project Water deliveries for the Contractor as provided in this Contract.

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

819 (c) The United States reserves the right to all seepage and return flow water
820 derived from Water Delivered to the Contractor hereunder which escapes or is discharged
821 beyond the Contractor's Service Area; *Provided, That* this shall not be construed as claiming for

822 the United States any right to seepage or return flow being put to reasonable and beneficial use
823 pursuant to this Contract within the Contractor's Service Area by the Contractor or those
824 claiming by, through, or under the Contractor.

825 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

831 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting
832 or other similar operational errors affecting the Project; drought, and other physical or natural
833 causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer
834 to meet current and future legal obligations, then, except as provided in subdivision (a) of Article
835 17 of this Contract, no liability shall accrue against the United States or any of its officers,
836 agents, or employees for any damage, direct or indirect, arising therefrom.

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

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

847 (e) By entering into this Contract, the Contractor does not waive any legal
848 rights or remedies it may have to file or participate in any administrative or judicial proceeding
849 contesting: (i) the sufficiency of the then-current Project M&I Water Shortage Policy; (ii) the

850 substance of such a policy; or (iii) the applicability of such a policy. By agreeing to the
851 foregoing, the Contracting Officer does not waive any legal defenses or remedies that it may then
852 have to assert in such a proceeding.

853 UNAVOIDABLE GROUNDWATER PERCOLATION

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

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

860 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

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

866 PROTECTION OF WATER AND AIR QUALITY

867 15. (a) Omitted.

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

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

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

882 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED
883 STATES

884 16. (a) Water or water rights now owned or hereafter acquired by the Contractor
885 other than from the United States and Irrigation Water furnished pursuant to the terms of this
886 Contract may be simultaneously transported through the same distribution facilities of the
887 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water
888 and non-project water were constructed without funds made available pursuant to Federal
889 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the
890 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive
891 Irrigation Water must be established through the certification requirements as specified in the
892 Acreage Limitation Rules and Regulations (43 CFR Part 426); and (iii) the water requirements of
893 Eligible Lands within the Contractor's Service Area can be established and the quantity of
894 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such
895 Eligible Lands. The Contractor and the Contracting Officer concur that the Contractor's
896 distribution system was constructed without funds made available pursuant to Federal
897 Reclamation law. The use of this distribution system is not subject to the provisions of this
898 subdivision of this Article.

899 (b) Water or water rights now owned or hereafter acquired by the Contractor,
900 other than from the United States or adverse to the Project or its contractors (i.e. non-project
901 water), may be stored, conveyed, and/or diverted through Project facilities, subject to the
902 completion of appropriate environmental documentation, with the approval of the Contracting

903 Officer and the execution of any contract determined by the Contracting Officer to be necessary,
904 consistent with the following provisions:

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

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

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

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

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

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

936 OPINIONS AND DETERMINATIONS

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

947 (b) The Contracting Officer shall have the right to make determinations
948 necessary to administer this Contract that are consistent with the provisions of this Contract, the

949 laws of the United States and of the State of California, and the rules and regulations
950 promulgated by the Secretary of the Interior. Such determinations shall be made in consultation
951 with the Contractor to the extent reasonably practicable.

952 COORDINATION AND COOPERATION

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

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

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

971 (1) The Contracting Officer will, at the request of the Contractor,

972 assist in the development of integrated resource management plans for the Contractor. Further,
973 the Contracting Officer will, as appropriate, seek authorizations for implementation of
974 partnerships to improve water supply, water quality, and reliability.

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

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

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

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

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

990 CHARGES FOR DELINQUENT PAYMENTS

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

999 at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt
1000 collection services associated with a delinquent payment.

1001 (b) The interest rate charged shall be the greater of either the rate prescribed
1002 quarterly in the Federal Register by the Department of the Treasury for application to overdue
1003 payments, or the interest rate of 0.5 percent per month. The interest rate charged will be
1004 determined as of the due date and remain fixed for the duration of the delinquent period.

1005 (c) When a partial payment on a delinquent account is received, the amount
1006 received shall be applied first to the penalty charges, second to the administrative charges, third
1007 to the accrued interest, and finally to the overdue payment.

1008 EQUAL EMPLOYMENT OPPORTUNITY

1009 20. During the performance of this Contract, the Contractor agrees as follows:

1010 (a) The Contractor will not discriminate against any employee or applicant for
1011 employment because of race, color, religion, sex, sexual orientation, gender identity, or national
1012 origin. The Contractor will take affirmative action to ensure that applicants are employed, and
1013 that employees are treated during employment, without regard to their race, color, religion, sex,
1014 sexual orientation, gender identity, or national origin. Such action shall include, but not be
1015 limited to the following: employment, upgrading, demotion, or transfer; recruitment or
1016 recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and
1017 selection for training, including apprenticeship. The Contractor agrees to post in conspicuous
1018 places, available to employees and applicants for employment, notices to be provided by the
1019 Contracting Officer setting forth the provisions of this nondiscrimination clause.

1020 (b) The Contractor will, in all solicitations or advertisements for employees
1021 placed by or on behalf of the Contractor, state that all qualified applicants will receive
1022 consideration for employment without regard to race, color, religion, sex, sexual orientation,
1023 gender identity, or national origin.

1024 (c) The Contractor will not discharge or in any other manner discriminate
1025 against any employee or applicant for employment because such employee or applicant has
1026 inquired about, discussed, or disclosed the compensation of the employee or applicant or
1027 another employee or applicant. This provision shall not apply to instances in which an
1028 employee who has access to the compensation information of other employees or applicants as
1029 part of such employee's essential job functions discloses the compensation of such other
1030 employees or applicants to individuals who do not otherwise have access to such information,
1031 unless such disclosure is in response to a formal complaint or charge, in furtherance of an
1032 investigation, proceeding, hearing, or action, including an investigation conducted by the
1033 employer, or is consistent with the Contractor's legal duty to furnish information.

1034 (d) The Contractor will send to each labor union or representative of workers
1035 with which it has a collective bargaining agreement or other contract or understanding, a notice,
1036 to be provided by the Contracting Officer, advising the labor union or workers' representative of

1037 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,
1038 1965, and shall post copies of the notice in conspicuous places available to employees and
1039 applicants for employment.

1040 (e) The Contractor will comply with all provisions of Executive Order No.
1041 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of
1042 Labor.

1043 (f) The Contractor will furnish all information and reports required by
1044 Executive Order No. 11246 of Sept. 24, 1965, and by the rules, regulations, and orders of the
1045 Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts
1046 by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain
1047 compliance with such rules, regulations, and orders.

1048 (g) In the event of the Contractor's noncompliance with the nondiscrimination
1049 clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be
1050 canceled, terminated or suspended in whole or in part and the Contractor may be declared
1051 ineligible for further Government contracts in accordance with procedures authorized in
1052 Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and
1053 remedies invoked as provided in Executive Order No. 11246 of Sept. 24, 1965 or by rule,
1054 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1055 (h) The Contractor will include the provisions of paragraphs (a) through (g) in
1056 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1057 Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24,
1058 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor
1059 will take such action with respect to any subcontract or purchase order as may be directed by the
1060 Secretary of Labor as a means of enforcing such provisions, including sanctions for
1061 noncompliance: *Provided, however, That* in the event the Contractor becomes involved in, or is
1062 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
1063 Contractor may request the United States to enter into such litigation to protect the interests of
1064 the United States.

1065 GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

1066 21. (a) The obligation of the Contractor to pay the United States as provided in
1067 this Contract is a general obligation of the Contractor notwithstanding the manner in which the
1068 obligation may be distributed among the Contractor's water users and notwithstanding the default
1069 of individual water users in their obligation to the Contractor.

1070 (b) The payment of charges becoming due pursuant to this Contract is a
1071 condition precedent to receiving benefits under this Contract. The United States shall not make
1072 water available to the Contractor through Project facilities during any period in which the
1073 Contractor is in arrears in the advance payment of water rates due the United States. The
1074 Contractor shall not deliver water under the terms and conditions of this Contract for lands or
1075 parties that are in arrears in the advance payment of water rates as levied or established by the

1076 Contractor.

1077 (c) With respect to subdivision (b) of this Article, the Contractor shall have no
1078 obligation to require advance payment for water rates which it levies.

1079 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1080 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
1081 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as
1082 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title
1083 III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L.
1084 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the
1085 applicable implementing regulations and any guidelines imposed by the U.S. Department of the
1086 Interior and/or Bureau of Reclamation.

1087 (b) These statutes prohibit any person in the United States from being
1088 excluded from participation in, being denied the benefits of, or being otherwise subjected to
1089 discrimination under any program or activity receiving financial assistance from the Bureau of
1090 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this
1091 Contract, the Contractor agrees to immediately take any measures necessary to implement this
1092 obligation, including permitting officials of the United States to inspect premises, programs, and
1093 documents.

1094 (c) The Contractor makes this Contract in consideration of and for the
1095 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
1096 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
1097 Reclamation, including installment payments after such date on account of arrangements for
1098 Federal financial assistance which were approved before such date. The Contractor recognizes
1099 and agrees that such Federal assistance will be extended in reliance on the representations and
1100 agreements made in this Article and that the United States reserves the right to seek judicial
1101 enforcement thereof.

1102 (d) Complaints of discrimination against the Contractor shall be investigated
1103 by the Contracting Officer's Office of Civil Rights.

1104 PRIVACY ACT COMPLIANCE

1105 23. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act)
1106 (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy Act
1107 (43 C.F.R. § 2.45, et seq.) in maintaining Landholder certification and reporting records required
1108 to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the
1109 Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43
1110 C.F.R. § 426.18.

1111 (b) With respect to the application and administration of the criminal penalty

1112 provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's
1113 employees who are responsible for maintaining the certification and reporting records referenced
1114 in paragraph (a) above are considered to be employees of the Department of the Interior. See 5
1115 U.S.C. § 552a(m).

1116 (c) The Contracting Officer or a designated representative shall provide the
1117 Contractor with current copies of the Department of the Interior Privacy Act regulations and the
1118 Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-
1119 31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of
1120 information contained in the Landholders' certification and reporting records.

1121 (d) The Contracting Officer shall designate a full-time employee of the
1122 Bureau of Reclamation to be the System Manager responsible for making decisions on denials
1123 pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43 C.F.R. § 2.72.
1124 The Contractor is authorized to grant requests by individuals for access to their own records.

1125 (e) The Contractor shall forward promptly to the System Manager each
1126 proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of records
1127 filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and provide the
1128 System Manager with information and records necessary to prepare an appropriate response to
1129 the requester. These requirements do not apply to individuals seeking access to their own
1130 certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18 unless
1131 the requester elects to cite the Privacy Act as authority for the request.

1132 (f) Upon complete payment of the Repayment Obligation by the
1133 Contractor, this Article 23 will no longer be applicable.

1134 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1135 24. In addition to all other payments to be made by the Contractor pursuant to this
1136 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a
1137 bill and detailed statement submitted by the Contracting Officer to the Contractor for such
1138 specific items of direct cost incurred by the United States for work requested by the Contractor
1139 associated with this Contract plus indirect costs in accordance with applicable Bureau of
1140 Reclamation policies and procedures. All such amounts referred to in this Article shall not
1141 exceed the amount agreed to in writing in advance by the Contractor. This Article shall not

1142 apply to costs for routine contract administration.

1143 WATER CONSERVATION

1144 25. (a) Prior to the delivery of water provided from or conveyed through
1145 Federally constructed or Federally financed facilities pursuant to this Contract, the
1146 Contractor shall develop a water conservation plan, as required by subsection 210(b) of the
1147 Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and
1148 Regulations).

1149 Additionally, an effective water conservation and efficiency program shall be based on the
1150 Contractor's water conservation plan that has been determined by the Contracting Officer to
1151 meet the conservation and efficiency criteria for evaluating water conservation plans
1152 established under Federal law. The water conservation and efficiency program shall contain
1153 definite water conservation objectives, appropriate economically feasible water conservation
1154 measures, and time schedules for meeting those objectives. Continued Project Water delivery
1155 pursuant to this Contract shall be contingent upon the Contractor's continued implementation of
1156 such water conservation program. In the event the Contractor's water conservation plan or any
1157 revised water conservation plan completed pursuant to subdivision (d) of this Article 25 have not
1158 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
1159 the Contracting Officer determines are beyond the control of the Contractor, water deliveries
1160 shall be made under this Contract so long as the Contractor diligently works with the Contracting
1161 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
1162 immediately begins implementing its water conservation and efficiency program in accordance
1163 with the time schedules therein.

1164 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1165 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the
1166 Contractor shall implement the Best Management Practices identified by the time frames issued

1167 by the Mid-Pacific Region's then-existing conservation and efficiency criteria for such
1168 M&I Water unless any such practice is determined by the Contracting Officer to be inappropriate
1169 for the Contractor.

1170 (c) The Contractor shall submit to the Contracting Officer a report on the
1171 status of its implementation of the water conservation plan on the reporting dates specified in the
1172 then existing conservation and efficiency criteria established under Federal law.

1173 (d) At five (5)-year intervals, the Contractor shall revise its water
1174 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating
1175 water conservation plans established under Federal law and submit such revised water
1176 management plan to the Contracting Officer for review and evaluation. The Contracting Officer
1177 will then determine if the water conservation plan meets Reclamation's then-existing
1178 conservation and efficiency criteria for evaluating water conservation plans established under
1179 Federal law.

1180 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1181 shall be described in the Contractor's water conservation plan.

1182 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1183 26. Except as specifically provided in Article 16 of this Contract, the provisions of
1184 this Contract shall not be applicable to or affect non-project water or water rights now owned or
1185 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1186 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1187 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or
1188 any water user within the Contractor's Service Area acquires or has available under any other
1189 contract pursuant to Federal Reclamation law.

1190 OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY(IES)

1191 27. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1192 and responsibility for funding a portion of the costs of such O&M, have been transferred to two
1193 Operating Non-Federal Entities by separate agreement between the United States and the
1194 Operating Non-Federal Entities. Those separate agreements shall not interfere with or affect the
1195 rights or obligations of the Contractor or the United States hereunder. Specifically, portions of
1196 the Delta-Mendota Canal, the San Luis Canal and other related facilities are operated by the San
1197 Luis & Delta Mendota Water Authority and the Friant-Kern Canal and related facilities are
1198 operated by the Friant Water Authority.

1199 (b) The Contracting Officer has previously notified the Contractor in writing
1200 that the O&M of a portion of the Project facilities which serve the Contractor has been
1201 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly
1202 to the applicable Operating Non-Federal Entity(ies), or to any successor(s) approved by the
1203 Contracting Officer under the terms and conditions of the separate agreement(s) between the
1204 United States and the Operating Non-Federal Entity(ies) described in subdivision (a) of this
1205 Article, all rates, charges, or assessments of any kind, including any assessment for reserve
1206 funds, which the Operating Non-Federal Entity(ies) or such successor(s) determines, sets, or
1207 establishes for the O&M of the portion of the Project facilities operated and maintained by the
1208 Operating Non-Federal Entity or such successor. Such direct payments to the Operating Non-
1209 Federal Entity or such successor shall not relieve the Contractor of its obligation to pay directly
1210 to the United States the Contractor's share of the Project Rates, Charges, and Tiered Pricing
1211 Component(s) except to the extent the Operating Non-Federal Entity collects payments on behalf
1212 of the United States in accordance with the separate agreement identified in subdivision (a) of

1213 this Article.

1214 (c) For so long as the O&M of any portion of the Project facilities serving the
1215 Contractor is performed by the Operating Non-Federal Entity(ies), or any successor(s) thereto,
1216 the Contracting Officer shall adjust those components of the Rates for Water Delivered under
1217 this Contract representing the cost associated with the activity being performed by the Operating
1218 Non-Federal Entity(ies) or its (their) successor(s).

1219 (d) In the event the O&M of the Project facilities operated and maintained by
1220 the Operating Non-Federal Entity(ies) is re-assumed by the United States during the term of this
1221 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the
1222 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1223 Contractor for Project Water under this Contract representing the O&M costs of the portion of
1224 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the
1225 absence of written notification from the Contracting Officer to the contrary, pay the Rates,
1226 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the
1227 United States in compliance with Article 7 of this Contract.

1228 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1229 28. The expenditure or advance of any money or the performance of any obligation of
1230 the United States under this Contract shall be contingent upon appropriation or allotment of
1231 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1232 obligations under this Contract. No liability shall accrue to the United States in case funds are
1233 not appropriated or allotted.

1234 BOOKS, RECORDS, AND REPORTS

1235 29. (a) The Contractor shall establish and maintain accounts and other books and
1236 records pertaining to administration of the terms and conditions of this Contract, including the
1237 Contractor's financial transactions; water supply data; project operations, maintenance, and
1238 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop
1239 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting
1240 Officer may require Reports shall be furnished to the Contracting Officer in such form and on

1241 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws
1242 and regulations, each party to this Contract shall have the right during office hours to examine
1243 and make copies of the other party's books and records relating to matters covered by this
1244 Contract.

1245 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1246 books, records, or other information shall be requested from the Contractor by the Contracting
1247 Officer unless such books, records, or information are reasonably related to the administration or
1248 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1249 time within which to provide the requested books, records, or information.

1250 (c) At such time as the Contractor provides information to the Contracting Officer
1251 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the
1252 Operating Non-Federal Entity(ies).

1253 ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

1254 30. (a) The provisions of this Contract shall apply to and bind the successors and
1255 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1256 therein by either party shall be valid until approved in writing by the other party.

1257 (b) The assignment of any right or interest in this Contract by either party
1258 shall not interfere with the rights or obligations of the other party to this Contract absent the
1259 written concurrence of said other party.

1260 (c) The Contracting Officer shall not unreasonably condition or withhold
1261 approval of any proposed assignment.

1262 SEVERABILITY

1263 31. In the event that a person or entity who is neither (i) a party to a Project contract,
1264 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor
1265 (iii) an association or other form of organization whose primary function is to represent parties to
1266 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or

1267 enforceability of a provision included in this Contract and said person, entity, association, or
1268 organization obtains a final court decision holding that such provision is legally invalid or
1269 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1270 the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of
1271 such final court decision identify by mutual agreement the provisions in this Contract which
1272 must be revised and (ii) within three months thereafter promptly agree on the appropriate
1273 revision(s). The time periods specified above may be extended by mutual agreement of the
1274 parties. Pending the completion of the actions designated above, to the extent it can do so
1275 without violating any applicable provisions of law, the United States shall continue to make the
1276 quantities of Project Water specified in this Contract available to the Contractor pursuant to the
1277 provisions of this Contract which were not found to be legally invalid or unenforceable in the
1278 final court decision.

1279 RESOLUTION OF DISPUTES

1280 32. Should any dispute arise concerning any provisions of this Contract, or the
1281 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1282 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1283 Officer referring any matter to the Department of Justice, the party shall provide to the other
1284 party thirty (30) days written notice of the intent to take such action; *Provided, That* such notice
1285 shall not be required where a delay in commencing an action would prejudice the interests of the
1286 party that intends to file suit. During the thirty (30) day notice period, the Contractor and the
1287 Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as

1288 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the
1289 Contractor or the United States may have.

1290 OFFICIALS NOT TO BENEFIT

1291 33. No Member of or Delegate to the Congress, Resident Commissioner, or official of
1292 the Contractor shall benefit from this Contract other than as a water user or landowner in the
1293 same manner as other water users or landowners.

1294 CHANGES IN CONTRACTOR'S ORGANIZATION AND/OR SERVICE AREA

1295 34. (a) While this Contract is in effect, no change may be made in the
1296 Contractor's Service Area or organization, by inclusion or exclusion of lands or by any other
1297 changes which may affect the respective rights, obligations, privileges, and duties of either the
1298 United States or the Contractor under this Contract including, but not limited to, dissolution,
1299 consolidation, or merger, except upon the Contracting Officer's written consent.

1300 (b) Within thirty (30) days of receipt of a request for such a change, the
1301 Contracting Officer will notify the Contractor of any additional information required by the
1302 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1303 agreeable schedule for timely completion of the process. Such process will analyze whether the
1304 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1305 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1306 Contract or to pay for any Federally-constructed facilities for which the Contractor is
1307 responsible; and (iii) have an impact on any Project Water rights applications, permits, or
1308 licenses. In addition, the Contracting Officer shall comply with NEPA and ESA. The
1309 Contractor will be responsible for all costs incurred by the Contracting Officer in this process,
1310 and such costs will be paid in accordance with Article 24 of this Contract.

1311 FEDERAL LAWS

1312 35. By entering into this Contract, the Contractor does not waive its rights to contest
1313 the validity or application in connection with the performance of the terms and conditions of this

1314 Contract of any Federal law or regulation; *Provided, That* the Contractor agrees to comply with
1315 the terms and conditions of this Contract unless and until relief from application of such Federal
1316 law or regulation to the implementing provision of the Contract is granted by a court of
1317 competent jurisdiction.

1318 RECLAMATION REFORM ACT OF 1982

1319 36. (a) Upon a Contractor's compliance with and discharge of the Repayment
1320 Obligation pursuant to this Contract, subsections (a) and (b) of Section 213 of the Reclamation
1321 Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

1322 (b) The obligation of a Contractor to pay the Additional Capital Obligation
1323 shall not affect the Contractor's status as having repaid all of the construction costs assignable to
1324 the Contractor or the applicability of subsections (a) and (b) of Section 213 of the Reclamation
1325 Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

1326 CERTIFICATION OF NONSEGREGATED FACILITIES

1327 37. The Contractor hereby certifies that it does not maintain or provide for its
1328 employees any segregated facilities at any of its establishments and that it does not permit its
1329 employees to perform their services at any location under its control where segregated facilities
1330 are maintained. It certifies further that it will not maintain or provide for its employees any
1331 segregated facilities at any of its establishments and that it will not permit its employees to
1332 perform their services at any location under its control where segregated facilities are
1333 maintained. The Contractor agrees that a breach of this certification is a violation of the Equal
1334 Employment Opportunity clause in this Contract. As used in this certification, the term
1335 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,
1336 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,
1337 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing
1338 facilities provided for employees which are segregated by explicit directive or are in fact
1339 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,
1340 disability, or otherwise. The Contractor further agrees that (except where it has obtained
1341 identical certifications from proposed subcontractors for specific time periods) it will obtain
1342 identical certifications from proposed subcontractors prior to the award of subcontracts
1343 exceeding \$10,000 which are not exempt from the provisions of the Equal Employment
1344 Opportunity clause; that it will retain such certifications in its files; and that it will forward the
1345 following notice to such proposed subcontractors (except where the proposed subcontractors

1346 have submitted identical certifications for specific time periods):

1347 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
1348 CERTIFICATIONS OF NONSEGREGATED FACILITIES

1349 A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract
1350 exceeding \$10,000 which is not exempt from the provisions of the Equal Employment
1351 Opportunity clause. The certification may be submitted either for each subcontract or for all
1352 subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for
1353 making false statements in offers is prescribed in 18 U.S.C. § 1001.

1354 NOTICES

1355 38. Any notice, demand, or request authorized or required by this Contract shall be
1356 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1357 delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno,
1358 California 93721 and on behalf of the United States, when mailed, postage prepaid, or delivered
1359 to the Director of Public Works and Planning of the County of Fresno, 2220 Tulare Street 6th
1360 Floor, Fresno, CA 93721. The designation of the addressee or the address may be changed by
1361 notice given in the same manner as provided in this article for other notices.

1362 MEDIUM FOR TRANSMITTING PAYMENT

1363 39. (a) All payments from the Contractor to the United States under this Contract
1364 shall be by the medium requested by the United States on or before the date payment is due. The
1365 required method of payment may include checks, wire transfers, or other types of payment
1366 specified by the United States.

1367 (b) Upon execution of the Contract, the Contractor shall furnish the
1368 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose
1369 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising
1370 out of the Contractor's relationship with the United States.

1371 CONTRACT DRAFTING CONSIDERATIONS

1372 40. This amended Contract has been negotiated and reviewed by the parties hereto,
1373 each of whom is sophisticated in the matters to which this amended Contract pertains. The
1374 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by
1375 the parties, and no one party shall be considered to have drafted the stated Articles. Single-
1376 spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

1377 CONFIRMATION OF CONTRACT

1378 41. Promptly after the execution of this amended Contract, the Contractor shall
1379 provide to the Contracting Officer a certified copy of a final decree of a court of competent

1380 jurisdiction in the State of California, confirming the proceedings on the part of the Contractor
1381 for the authorization of the execution of this amended Contract. This amended Contract shall not
1382 be binding on the United States until the Contractor secures a final decree.

1383 IN WITNESS WHEREOF, the parties hereto have executed this amended Contract as of
1384 the day and year first above written.

1385 THE UNITED STATES OF AMERICA

1386 By: _____
1387 Regional Director
1388 Interior Region 10: California-Great Basin
1389 Bureau of Reclamation

1390 (SEAL) COUNTY OF FRESNO

1391 By:  _____
1392 Chairman of the Board of Supervisors,
1393 County of Fresno, State of California

1394 Attest:

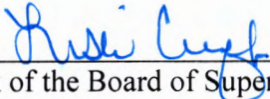
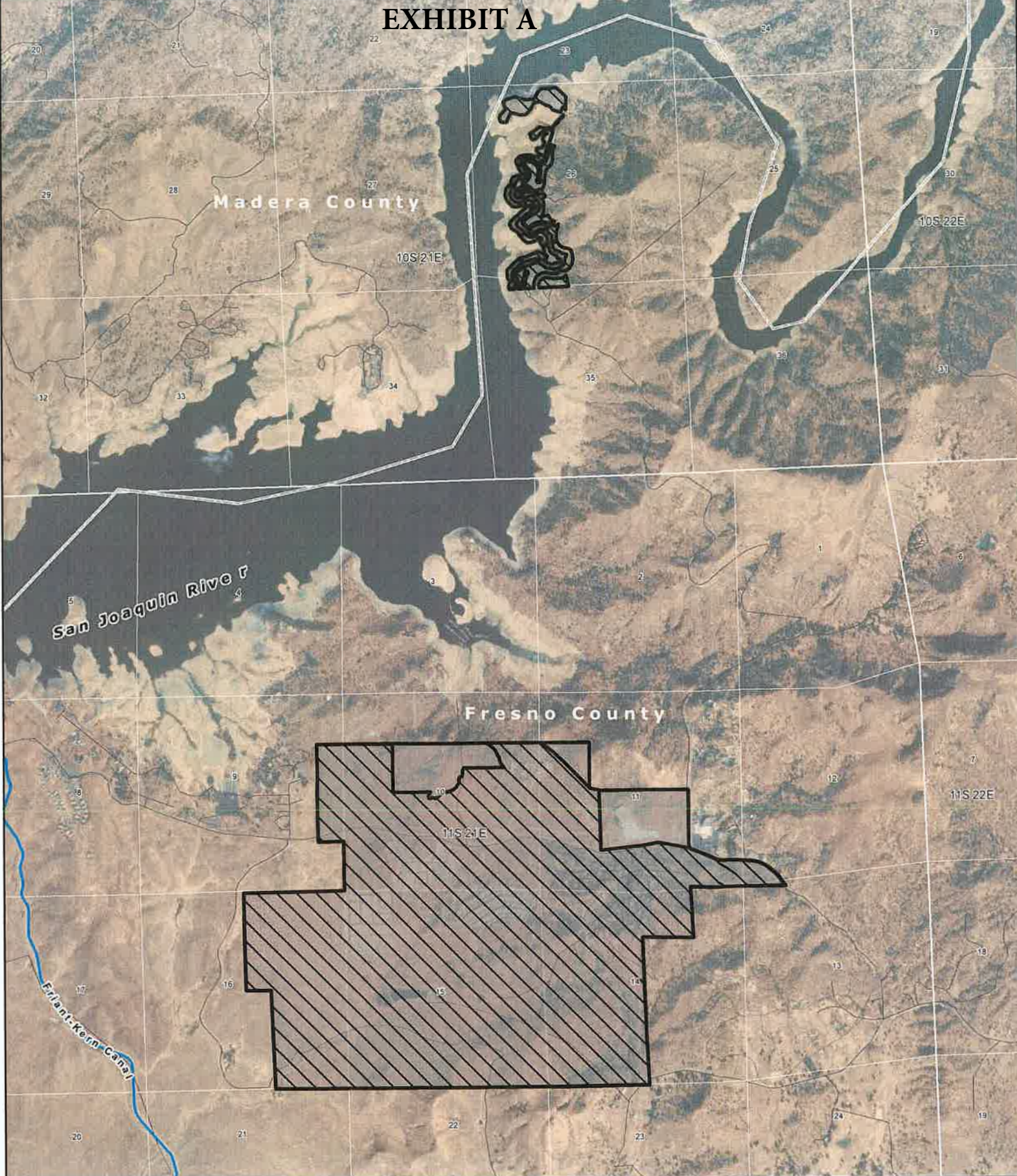


1395 By:  _____
Clerk of the Board of Supervisors

EXHIBIT A

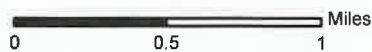


-  District Boundary
-  Contractor's Service Area

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



BUREAU OF
RECLAMATION



N
1785-202-234

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

	Water (Through Banks PP)	M&I Water (Through Banks PP)
COST-OF-SERVICE (COS) RATES		
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
TOTAL COS RATE	\$ 70.58	\$ 165.66
IRRIGATION FULL COST RATE		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$ 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	\$ -
M&I FULL COST RATE		\$ 165.66
CHARGES AND ASSESSMENTS (<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[@]

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 - Actual	\$ 31,282		
Adjusted Construction Cost	\$ 113,053	\$	106,955
Intertie Construction Cost (N/A):	\$ -	\$	-
Total	\$ 113,053	\$	106,955
If Paid in Installments (Used 20 yr CMT)			
	Due****		
Payment 1	12/1/2021	\$	27,414
Payment 2	12/1/2022	\$	27,414
Payment 3	12/1/2023	\$	27,414
Payment 4	12/1/2024	\$	27,414
Total Installment Payments		\$	109,656
20 yr CMT Rates - 11/01/2021 (to be adjusted to effective date of contract) [@]			2.010%
Discount Rate (1/2 of the Treasury Rate per the WIIN Act, Section 4011(a)(2)(A))			1.005%

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

Calculation Support: Irrigation Lump Sum or First Payment**** 12/1/2021
 Days Until the End of the Fiscal Year 303

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	\$ 113,053	\$ 11,305	\$ 11,100	\$ -	\$ -	\$ -	\$ 11,100
2022	\$ 101,748	\$ 11,305	\$ 11,081	\$ -	\$ -	\$ -	\$ 11,081
2023	\$ 90,443	\$ 11,305	\$ 10,971	\$ -	\$ -	\$ -	\$ 10,971
2024	\$ 79,137	\$ 11,305	\$ 10,862	\$ -	\$ -	\$ -	\$ 10,862
2025	\$ 67,832	\$ 11,305	\$ 10,754	\$ -	\$ -	\$ -	\$ 10,754
2026	\$ 56,527	\$ 11,305	\$ 10,647	\$ -	\$ -	\$ -	\$ 10,647
2027	\$ 45,221	\$ 11,305	\$ 10,541	\$ -	\$ -	\$ -	\$ 10,541
2028	\$ 33,916	\$ 11,305	\$ 10,436	\$ -	\$ -	\$ -	\$ 10,436
2029	\$ 22,611	\$ 11,305	\$ 10,332	\$ -	\$ -	\$ -	\$ 10,332
2030	\$ 11,305	\$ 11,305	\$ 10,229	\$ -	\$ -	\$ -	\$ 10,229
2031-63				\$ -	\$ -	\$ -	\$ -
Total, Lump Sum Payment			\$ 106,955			\$ -	\$ 106,955

Amount of Reduction, Lump Sum \$ 6,098 \$ - \$ 6,098

* 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.

*** 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.

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