

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

CONTRACT BETWEEN THE UNITED STATES
AND
WESTLANDS WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
SAN LUIS UNIT AND DELTA DIVISION AND FACILITIES REPAYMENT

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	1
	Explanatory Recitals	2
1.	Definitions.....	8
2.	Term of Contract – Right to Use of Water	13
3.	Water to be Made Available and Delivered to the Contractor.....	14
4.	Time for Delivery of Water	20
5.	Point of Diversion and Responsibility for Distribution of Water	21
6.	Measurement of Water Within the Contractor’s Service Area.....	23
7.	Rates, Method of Payment for Water and Accelerated Repayment of Facilities	25
8.	Non-Interest Bearing O&M Deficits	33
9.	Sales, Transfers, or Exchanges of Water	34
10.	Application of Payments and Adjustments.....	35
11.	Temporary Reductions — Return Flows	36
12.	Constraints of the Availability of Water	37
13.	Unavoidable Groundwater Percolation.....	40
14.	Compliance with Federal Reclamation Laws	40
15.	Protection of Water and Air Quality	40
16.	Water Acquired by the Contractor Other than from the United States.....	41
17.	Opinions and Determinations	44
18.	Coordination and Cooperation.....	45
19.	Charges for Delinquent Payments	47
20.	Equal Employment Opportunity	47

Table of Contents – continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
21.	General Obligation — Benefits Conditioned Upon Payment.....	49
22.	Compliance with Civil Rights Law and Regulations.....	50
23.	Privacy Act Compliance	50
24.	Contractor to Pay Certain Miscellaneous Costs.....	51
25.	Water Conservation	52
26.	Existing or Acquired Water or Water Rights.....	53
27.	Operation and Maintenance of Transferred Works	54
28.	O&M by the San Luis & Delta-Mendota Water Authority	55
28.1	O&M by the California Department of Water Resources	57
28.2	O&M by the Contractor	59
28.3	Pumping Plants, Power for Pumping Plants	62
28.4	Examination, Inspection, and Audit of Project Works, Records, and Reports for Determining Adequacy of Operation and Maintenance	63
29.	Contingent of Appropriation or Allotment of Funds	64
30.	Books, Records, and Reports	65
31.	Assignment Limited – Successors and Assigns Obligated	65
32.	Severability	66
33.	Resolution of Disputes	66
34.	Officials not to Benefit.....	67
35.	Changes in Contractor’s Organization or Service Area.....	67
36.	Federal Laws	68
37.	Notices	68
38.	Emergency Reserve Fund	68
39.	Administration of Federal Project Lands	70
40.	Contamination or Pollution of Federal Property.....	70
41.	Reclamation Reform Act of 1982	72
42.	Certification of Nonsegregated Facilities	72
43.	Pest Management	73
44.	Medium for Transmitting Payment.....	74
45.	Contract Drafting Considerations	74
46.	Confirmation of Contract.....	74
	Signature Page.....	76
	Exhibit A – Map of Contractor’s Service Area	
	Exhibit B – Rates and Charges	
	Exhibit C – Central Valley Project Water Needs Assessments Purpose and Methodology	
	Exhibit D – Repayment Obligation	

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

CONTRACT BETWEEN THE UNITED STATES
AND
WESTLANDS WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
SAN LUIS UNIT AND DELTA DIVISION AND FACILITIES REPAYMENT

1 THIS CONTRACT, made this ___ day of _____, 20XX, in
2 pursuance generally of the Act of June 17, 1902, (32 Stat. 388), and acts amendatory thereof or
3 supplementary thereto, including but not limited to, the Acts of August 26, 1937 (50 Stat. 844),
4 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
5 July 2, 1956 (70 Stat. 483), June 3 1960 (74 Stat. 156), June 21, 1963 (77 Stat. 68), October 12,
6 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, Title XXXIV of the Act of
7 October 30, 1992 (106 Stat. 4706), as amended, and the Water Infrastructure Improvements for
8 the Nation Act (Public Law (Pub. L.) 114-322, 130 Stat. 1628), Section 4011 (a-d) and (f)
9 (“WIIN Act”), all collectively hereinafter referred to as Federal Reclamation law, between the
10 UNITED STATES OF AMERICA, hereinafter referred to as the United States, represented by
11 the officer executing this Contract, hereinafter referred to as the Contracting Officer, and
12 WESTLANDS WATER DISTRICT, hereinafter referred to as the Contractor, a public agency of
13 the State of California, duly organized, existing, and acting pursuant to the laws thereof;

14 WITNESSETH, That:

EXPLANATORY RECITALS

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

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

[2nd] WHEREAS, the United States constructed the Delta Division Facilities, including the San Luis Unit facilities (which include the San Luis Canal, the Coalinga Canal, the Pleasant Valley Pumping Plant, and the Dos Amigos Pumping Plant), which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

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

[3.1] WHEREAS, the Contractor assigned to the United States, California State Water Resources Control Board (previously California State Water Rights Board) application number 15764 on October 17, 1960, following receipt of a letter, dated September 29, 1960, from the then-Acting Regional Director of the Bureau of Reclamation that, “A permanent water supply for your district will, of course, be assured and made available pursuant to a long term contract, renewable in accordance with current provisions of Federal Reclamation law.”; and

36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56

[4th] WHEREAS, the terms and conditions pursuant to which Project Water is to be delivered to the Contractor through December 31, 2007, are addressed in the Contract Between the United States and Westlands Water District Providing for Water Service, dated June 5, 1963, and the Stipulated Judgment in the lawsuit entitled Barcellos and Wolfsen, Inc., v. Westlands Water District, Civ. No. F-79-106-EDP (E.D. Cal.), as consolidated with Westlands Water District v. United States of America, Civ. No. F-81-245-EDP (E.D. Cal.), entered on December 30, 1986; and

[5th] WHEREAS, the United States and the Contractor have pursuant to Subsection 3404(c)(3) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into binding agreements identified as Binding Agreement No. 14-06-200-495A-BA, and Binding Agreement No. CV 79-106-EDP-BA, which sets out the terms pursuant to which the Contractor agreed to renew its contract before the expiration date after completion of the Programmatic Environmental Impact Statement (PEIS) and other appropriate environmental documentation and negotiation of a renewal contract; and which also sets out the consequences of a subsequent decision not to renew; and

[6th] WHEREAS, the United States and the Contractor entered into Delta Division and San Luis Unit Contract Number 14-06-200-495A-IR1 and subsequent Interim Renewal Contracts 14-06-200-495A-IR2 through 14-06-200-495A-IR6, the last of which is hereinafter referred to as the “Existing Contract”, which established terms for the delivery of

57 Project Water to the Contractor from the Delta Division and San Luis Unit, and which was in
58 effect the date the WIIN Act was enacted; and

59 [7th] WHEREAS, on December 16, 2016, the 114th Congress of the United
60 States of America enacted the WIIN Act; and

61 [8th] WHEREAS, Section 4011(a)(1) provides that “upon request of the
62 contractor, the Secretary of the Interior shall convert any water service contract in effect on the
63 date of enactment of this subtitle and between the United States and a water users’ association
64 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under
65 mutually agreeable terms and conditions.”; and

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

73 [10th] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered
74 into pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service,
75 repayment, exchange and transfer contractual rights between the water users’ association
76 [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the
77 water users’ association [Contractor] and their landowners as provided under State law.”; and

78 [11th] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that
79 “implementation of the provisions of this subtitle shall not alter...(3) the priority of a water
80 service or repayment contractor to receive water; or (4) except as expressly provided in this
81 section, any obligations under the Federal Reclamation law, including the continuation of
82 Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and
83 repayment contractors making prepayments pursuant to this section.”; and

84 [12th] WHEREAS, upon the request of the Contractor, the WIIN Act directs the
85 Secretary to convert irrigation water service contracts and municipal and industrial (M&I) water
86 service contracts into repayment contracts, amend existing repayment contracts, and allow
87 contractors to prepay their construction cost obligations pursuant to applicable Federal
88 Reclamation law; and

89 [13th] WHEREAS, the United States has determined that the Contractor
90 has fulfilled all of its obligations under the Existing Contract; and

91 [14th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
92 Contracting Officer that the Contractor has utilized the Project Water supplies available
93 to it for reasonable and beneficial use and expects to utilize fully for reasonable and
94 beneficial use the quantity of Project Water to be made available to it pursuant to this
95 Contract; and

96 [15th] WHEREAS, water obtained from the Project has been relied upon by
97 urban and agricultural areas within California for more than 50 years, and is considered
98 by the Contractor as an essential portion of its water supply; and

99 [16th] WHEREAS, the economies of regions within the Project, including the
100 Contractor's, depend upon the continued availability of water, including water service
101 from the Project; and

102 [16.1] WHEREAS, the United States Court of Appeals for the Ninth Circuit has
103 held that Section 1(a) of the San Luis Act, Pub. L. 86-488 (74 Stat. 156) imposes on the
104 Secretary of the Interior a duty to provide drainage service to the San Luis Unit; and

105 [16.2] WHEREAS, the Contractor and the Contracting Officer recognize that
106 adequate drainage service is required to maintain agricultural production within certain
107 areas served with Project Water made available under this Contract; and

108 [16.3] WHEREAS, the Contracting Officer intends, to the extent appropriated
109 funds are available, to develop and implement effective solutions to drainage problems in
110 the San Luis Unit; and

111 [16.4] WHEREAS, the Contracting Officer and the Contractor
112 acknowledge that such drainage solutions may involve actions not originally
113 contemplated and/or the construction or use of facilities, other than the San Luis Drain;
114 that the Contractor is investing in drainage solutions for lands within its boundaries that
115 should be considered by the Contracting Officer in determining drainage solutions; and that the
116 existing ratesetting policy as it relates to the allocation and collection of drainage costs may
117 require amendment to recognize those investments by the Contractor and other relevant
118 circumstances; and

119 [16.5] WHEREAS, the Department of the Interior, Bureau of Reclamation
120 published in June 2006 the San Luis Drainage Feature Re-evaluation Final

121 Environmental Impact Statement, which considers alternatives to provide agricultural
122 drainage service to the San Luis Unit; and

123 [16.6] WHEREAS, on March 9, 2007, the Record of Decision was signed for the
124 San Luis Drainage Feature Re-evaluation Final Environmental Impact Statement
125 identifying the retirement of up to 194,000 acres of land from irrigated agricultural
126 productions as the selected alternative; and

127 [17th] WHEREAS, the Secretary intends through coordination, cooperation, and
128 partnerships to pursue measures to improve water supply, water quality, and reliability of the
129 Project for all Project purposes; and

130 [18th] WHEREAS, the mutual goals of the United States and the Contractor
131 include: to provide for reliable Project Water supplies; to control costs of those supplies;
132 to achieve repayment of the Project as required by law; to guard reasonably against Project
133 Water shortages; to achieve a reasonable balance among competing demands for use of
134 Project Water; and to comply with all applicable environmental statutes, all consistent with
135 the legal obligations of the United States relative to the Project; and

136 [18.1] WHEREAS, the parties intend by this Contract to maintain a cooperative
137 relationship in order to achieve their mutual goals; and

138 [19th] WHEREAS, the Contractor has utilized or may utilize transfers, contract
139 assignments, rescheduling, and conveyance of Project Water and non-Project water under this
140 Contract as tools to minimize the impacts of a Condition of Shortage and to maximize the
141 beneficial use of water; and

142 [19.1] WHEREAS, the parties desire and intend that this Contract not provide a
143 disincentive to the Contractor in continuing to carry out the beneficial activities set out in
144 the Explanatory Recital immediately above; and

145 [20th] WHEREAS, the Contracting Officer and the Contractor agree that this
146 Contract complies with Section 4011 of the WIIN Act; and

147 [21st] WHEREAS, the Contracting Officer and the Contractor agree to amend
148 and convert the Existing Contract pursuant to section 4011 of the WIIN Act and other Federal
149 Reclamation law on the terms and conditions set forth below;

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

152 DEFINITIONS

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

155 (a) “Additional Capital Obligation” shall mean construction costs or other
156 capitalized costs incurred after the effective date of Contract or not reflected in the Existing
157 Capital Obligation as defined herein and in accordance with Section 4011, subsection (a)(2)(B)
158 and (a)(3)(B) of the Water Infrastructure Improvements for the Nation Act (Pub. L. 114-322, 130
159 Stat. 1628) (“WIIN Act”);

160 (a)(1) “Calendar Year” shall mean the period January 1 through December 31,
161 both dates inclusive;

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

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

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

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

173 (f) "Contractor's Service Area" shall mean the area to which the Contractor is
174 permitted to provide Project Water under this Contract as described in Exhibit "A"
175 attached hereto, which may be modified from time to time in accordance with Article 35
176 of this Contract without amendment of this Contract;

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

179 (g)(1) "Delta Division Facilities" shall mean those existing and future Project
180 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not
181 limited to, the C.W. "Bill" Jones Pumping Plant, the O'Neill Forebay, the O'Neill
182 Pumping/Generating Plant, and the San Luis Reservoir, used to divert, store, and convey

183 water to those Project Contractors entitled to receive water conveyed through the Delta-
184 Mendota Canal;

185 (h) “Eligible Lands” shall mean all lands to which Irrigation Water may be
186 delivered in accordance with Section 204 of the Reclamation Reform Act of 1982 (96 Stat.
187 1263), as amended;

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

191 (i)(1) “Existing Capital Obligation” shall mean the remaining amount of
192 construction costs or other capitalized costs allocable to the Contractor as described in section
193 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central
194 Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively,
195 dated Month/Day/Year [specify ratebook year for all contractors.] [contractor specific to
196 address the intertie], as adjusted to reflect payments not reflected in such schedule. The
197 Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in
198 Exhibit D, which is incorporated herein by reference;

199 (j) Omitted

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

202 (l) Omitted

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

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

208 (o) "Municipal and Industrial (M&I) Water" shall mean the use of Project
209 Water for municipal, industrial, and miscellaneous other purposes not falling under the
210 definition of "Irrigation Water" or within another category of water use under an
211 applicable Federal authority;

212 (p) Omitted

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

216 (r) "Operating Non-Federal Entity" shall mean the entity(ies), its (their)
217 successors or assigns, which has (have) the obligation to operate and maintain all or a
218 portion of the Delta Division Facilities pursuant to written agreement(s) with the United
219 States. When this Contract was entered into, the Operating Non-Federal Entities were the
220 San Luis & Delta-Mendota Water Authority and, with respect to San Luis Unit facilities,
221 the California Department of Water Resources, and the Contractor;

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

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

227 (u) "Project Water" shall mean all water that is developed, diverted,
228 stored, or delivered by the Secretary in accordance with the statutes authorizing the

229 Project and in accordance with the terms and conditions of water rights acquired
230 pursuant to California law;

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

234 (w) Omitted

235 (x) “Repayment Obligation” for Water Delivered as Irrigation Water shall
236 mean the Existing Capital Obligation discounted by ½ of the Treasury rate, which shall be the
237 amount due and payable to the United States, pursuant to section 4011(a)(2)(A) of the WIIN Act;
238 and for Water Delivered as M&I Water shall mean the amount due and payable to the United
239 States, pursuant to section 4011(a)(3)(A) of the WIIN Act;

240 (x)(2) “Secretary” shall mean the Secretary of the Interior, a duly appointed
241 successor, or an authorized representative acting pursuant to any authority of the
242 Secretary and through any agency of the Department of the Interior;

243 (y) “Tiered Pricing Component” shall be the incremental amount to be
244 paid for each acre-foot of Water Delivered as provided for in Exhibit B;

245 (z) “Water Delivered” or “Delivered Water” shall mean Project Water
246 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting
247 Officer;

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

251 (bb) "Water Scheduled" shall mean Project Water made available to the
252 Contractor for which times and quantities for delivery have been established by the
253 Contractor and Contracting Officer, pursuant to subdivision (b) of Article 4 of this Contract;
254 and

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

257 TERM OF CONTRACT - RIGHT TO USE OF WATER

258 2. (a) This Contract shall be effective March 1, 2020, and shall continue so long
259 as the Contractor pays applicable Rates and Charges under this Contract, consistent with Section
260 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable law;

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

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

273 cured within the thirty (30) calendar days' notice period. If the Contracting Officer has
274 suspended making water available pursuant to this paragraph, upon cure of such non-compliance
275 satisfactory to the to the Contracting Officer, the Contracting Officer shall resume making water
276 available and declaring Water Made Available pursuant to this Contract;

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

279 (b) Upon complete payment of the Repayment Obligation by the Contractor,
280 and notwithstanding any Additional Capital Obligation that may later be established, the Tiered
281 Pricing Component as that term is utilized in this Contract, the acreage limitations, reporting, and
282 Full Cost pricing provisions of the Reclamation Reform Act of 1982, and subdivisions 1.(h),
283 1.(i), 1.(k) and 1.(y) of this Contract shall no longer be applicable.

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

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

290 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

291 3. (a) During each Year, consistent with all applicable State water rights
292 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and
293 12 of this Contract, the Contracting Officer shall make available for delivery to the
294 Contractor 1,150,000 acre-feet of Project Water for irrigation and M&I purposes. Water

295 Delivered to the Contractor in accordance with this subdivision shall be scheduled and
296 paid for pursuant to the provisions of Articles 4 and 7 of this Contract.

297 (a) (1) Notwithstanding any other provisions of this Contract, in the
298 event the Secretary implements a program to retire land from irrigated agricultural
299 production within the Contractor's Service Area as a means of addressing drainage in the
300 San Luis Unit, the Contracting Officer shall conduct a water needs assessment to
301 determine whether the Contract Total will be reduced. An initial water needs
302 assessment shall be conducted upon the retirement of 25 percent of the land projected to
303 be retired under such land retirement program. Subsequent assessments shall be conducted
304 upon the retirement of 50 percent and 75 percent of the land projected to be retired and a
305 final assessment will be conducted at the conclusion of the land retirement program. Any water
306 needs assessment performed pursuant to this paragraph (1) shall update the water needs
307 assessment used to compute the quantity of Project Water to be made available under
308 this Contract, which was submitted to the Contractor on November 2, 2000, and shall be
309 conducted pursuant to the methodology attached to this Contract as Exhibit "C." The
310 Contractor may request the Contracting Officer update the methodology employed
311 based upon Contractor-specific information made available to the Contracting Officer
312 by the Contractor. Upon completion of any water needs assessment performed
313 pursuant to this paragraph, the Contracting Officer may make a determination to reduce
314 the quantity of water to be made available under this Contract, and the Contract Total shall be
315 reduced according to that determination; *Provided, That* so long as the then-existing
316 Contract Total can be put to reasonable and beneficial use as determined by the water

317 needs assessment on Eligible Lands within the Contractor's Service Area that are not
318 retired, the retirement of land shall not affect the quantity of Project Water to be made
319 available pursuant to this Contract.

320 (b) Because the capacity of the Project to deliver Project Water has been
321 constrained in recent years and may be constrained in the future due to many factors
322 including hydrologic conditions and implementation of Federal and State laws, the
323 likelihood of the Contractor actually receiving the amount of Project Water set out in
324 subdivision (a) of this Article in any given Year is uncertain. The Contracting Officer's
325 modeling referenced in the PEIS projected that the Contract Total set forth in this Contract
326 will not be available to the Contractor in many years. Nothing in this subdivision (b) of this
327 Article shall affect the rights and obligations of the parties under any provision of this Contract.

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

330 (c) (1) In the event any Project Contractor (other than a Cross Valley
331 Contractor) that receives Project Water through the Delta Division Facilities obtains a
332 contractual agreement that the Contracting Officer shall make Project Water available at
333 a point or points of delivery in or north of the Delta, at the request of the Contractor and
334 upon completion of any required environmental documentation, this Contract shall be
335 amended to provide for deliveries in or north of the Delta on mutually agreeable terms.
336 Such amendments to this Contract shall be limited solely to those changes made necessary by
337 the addition of such alternate points of delivery in or north of the Delta; *Provided, That*

338 the Contracting Officer's use of the Harvey O. Banks Pumping Plant to deliver Project
339 Water does not trigger this right of amendment.

340 (d) The Contractor shall make reasonable and beneficial use of all water
341 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or
342 in lieu), groundwater banking programs, surface water storage programs, and other
343 similar programs utilizing Project Water or other water furnished pursuant to this
344 Contract conducted within the Contractor's Service Area which are consistent with
345 applicable State law and result in use consistent with Federal Reclamation law will be
346 allowed; Provided, That any direct recharge program(s) is (are) described in the
347 Contractor's water conservation plan submitted pursuant to Article 25 of this Contract;
348 Provided, further, That such water conservation plan demonstrates sufficient lawful uses
349 exist in the Contractor's Service Area so that using a long-term average, the quantity of
350 Delivered Water is demonstrated to be reasonable for such uses and in compliance with
351 Federal Reclamation law. Groundwater recharge programs, groundwater banking
352 programs, surface water storage programs, and other similar programs utilizing Project
353 Water or other water furnished pursuant to this Contract conducted outside the
354 Contractor's Service Area may be permitted upon written approval of the Contracting
355 Officer, which approval will be based upon environmental documentation, Project Water
356 rights, and Project operational concerns. The Contracting Officer will address such
357 concerns in regulations, policies, or guidelines.

358 (e) Omitted

359 (f) Following the declaration of Water Made Available under Article 4 of
360 this Contract, the Contracting Officer will make a determination whether Project Water, or
361 other water available to the Project, can be made available to the Contractor in addition to
362 the Contract Total under this Article during the Year without adversely impacting other
363 Project Contractors. At the request of the Contractor, the Contracting Officer will
364 consult with the Contractor prior to making such a determination. If the Contracting
365 Officer determines that Project Water, or other water available to the Project, can be
366 made available to the Contractor, the Contracting Officer will announce the availability of
367 such water and shall so notify the Contractor as soon as practical. The Contracting
368 Officer will thereafter meet with the Contractor and other Project Contractors capable of
369 taking such water to determine the most equitable and efficient allocation of such water.
370 If the Contractor requests the delivery of any quantity of such water, the Contracting
371 Officer shall make such water available to the Contractor in accordance with applicable
372 statutes, regulations, guidelines, and policies. Subject to existing interim renewal,
373 repayment, and other long-term contractual commitments, water rights and operational
374 constraints, interim renewal, repayment, and other long-term Project Contractors shall have a
375 first right to acquire such water, including Project Water made available pursuant to
376 Section 215 of the Reclamation Reform Act of 1982.

377 (g) The Contractor may request permission to reschedule for use during
378 the subsequent Year some or all of the Water Made Available to the Contractor during
379 the current Year, referred to as “rescheduled water.” The Contractor may request
380 permission to use during the current Year a quantity of Project Water which may be

381 made available by the United States to the Contractor during the subsequent Year referred
382 to as “preuse.” The Contracting Officer's written approval may permit such uses in
383 accordance with applicable statutes, regulations, guidelines, and policies.

384 (h) The Contractor’s right pursuant to Federal Reclamation law and
385 applicable State law to the reasonable and beneficial use of the Water Delivered pursuant to
386 this Contract shall not be disturbed, and this Contract shall continue so long as the
387 Contractor pays applicable Rates and Charges under this Contract consistent with Section
388 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable, and applicable
389 law. Nothing in the preceding sentence shall affect the Contracting Officer’s ability to impose
390 shortages under Article 11 or subdivision (b) of Article 12 of this Contract.

391 (i) Project Water furnished to the Contractor pursuant to this Contract
392 may be delivered for purposes other than those described in subdivisions (m) and (o) of
393 Article 1 of this Contract upon written approval by the Contracting Officer in
394 accordance with the terms and conditions of such approval.

395 (j) The Contracting Officer shall make reasonable efforts to protect the
396 water rights necessary for the Project and to provide the water available under this Contract.
397 The Contracting Officer shall not object to participation by the Contractor, in the capacity
398 and to the extent permitted by law, in administrative proceedings related to the Project
399 Water rights; *Provided, That* the Contracting Officer retains the right to object to the
400 substance of the Contractor's position in such a proceeding; *Provided, further, That* in
401 such proceedings the Contracting Officer shall recognize the Contractor has a legal right
402 under the terms of this Contract to use Project Water.

TIME FOR DELIVERY OF WATER

403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424

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

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

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

(d) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the United States shall deliver Project Water to the Contractor in accordance

425 with the initial schedule submitted by the Contractor pursuant to subdivision (b) of this
426 Article, or any written revision(s) thereto satisfactory to the Contracting Officer, submitted
427 within a reasonable time prior to the date(s) on which the requested change(s) is (are) to
428 be implemented.

429 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

430 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
431 Contract shall be delivered to the Contractor at Project facilities and any additional point or
432 points of delivery either on Project facilities or another location or locations mutually
433 agreed to in writing by the Contracting Officer and the Contractor.

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

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

443 (d) All Water Delivered to the Contractor pursuant to this Contract shall
444 be measured and recorded with equipment furnished, installed, operated, and maintained
445 by the Contracting Officer either directly or indirectly through its written agreements(s)
446 with the Operating Non-Federal Entity(ies), unless undertaken by the Contractor with

447 the consent of the Contracting Officer at the point or points of delivery established
448 pursuant to subdivision (a) of this Article. Upon the request of either party to this
449 Contract, the Contracting Officer shall investigate, or cause to be investigated by the
450 appropriate Operating Non-Federal Entity(ies), the accuracy of such measurements and
451 shall take any necessary steps to adjust any errors appearing therein. For any period of
452 time when accurate measurements have not been made, the Contracting Officer shall
453 consult with the Contractor and the appropriate Operating Non-Federal Entity(ies), if any,
454 prior to making a final determination of the quantity delivered for that period of time.

455 (e) Absent a separate contrary written agreement with the Contractor,
456 neither the Contracting Officer nor any Operating Non-Federal Entity(ies) shall be
457 responsible for the control, carriage, handling, use, disposal, or distribution of Water
458 Delivered to the Contractor pursuant to this Contract beyond the point or points of
459 delivery established pursuant to subdivision (a) of this Article. The Contractor shall
460 indemnify the United States, its officers, employees, agents, and assigns on account of
461 damage or claim of damage of any nature whatsoever for which there is legal
462 responsibility, including property damage, personal injury, or death arising out of or
463 connected with the control, carriage, handling, use, disposal, or distribution of such Water
464 Delivered beyond such point or points of delivery except for any damage or claim arising
465 out of: (i) acts or omissions of the Contracting Officer or any of its officers, employees,
466 agents, and assigns, including the Operating Non-Federal Entity(ies) with the intent of
467 creating the situation resulting in any damage or claim; (ii) willful misconduct of the
468 Contracting Officer or any of its officers, employees, agents, and assigns, including the

469 Operating Non-Federal Entity(ies); (iii) negligence of the Contracting Officer or any of its
470 officers, employees, agents, and assigns, including the Operating Non-Federal Entity(ies);
471 (iv) a malfunction of facilities owned and/or operated by the United States or the Operating
472 Non-Federal Entity(ies); or (v) failure of the United States, its officers, employees, agents,
473 and assigns, including the Operating Non-Federal Entity(ies), to provide drainage service.

474 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

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

490 all its annual surface water deliveries in the annual report described in subdivision (c) of
491 Article 25 of this Contract.

492 (b) To the extent the information has not otherwise been provided, upon
493 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
494 report describing the measurement devices or water measuring methods being used or to
495 be used to implement subdivision (a) of this Article and identifying the agricultural
496 turnouts and the M&I service connections or alternative measurement programs
497 approved by the Contracting Officer, at which such measurement devices or water
498 measuring methods are being used, and, if applicable, identifying the locations at which
499 such devices and/or methods are not yet being used including a time schedule for
500 implementation at such locations. The Contracting Officer shall advise the Contractor
501 in writing within 60 days as to the adequacy and necessary modifications, if any, of the
502 measuring devices or water measuring methods identified in the Contractor's report and
503 if the Contracting Officer does not respond in such time, they shall be deemed adequate.
504 If the Contracting Officer notifies the Contractor that the measuring devices or methods
505 are inadequate, the parties shall within 60 days following the Contracting Officer's
506 response, negotiate in good faith the earliest practicable date by which the Contractor shall
507 modify said measuring devices and/or measuring methods as required by the Contracting
508 Officer to ensure compliance with subdivision (a) of this Article.

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

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

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

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

520 7. (a) Notwithstanding the Contractor's full prepayment of the
521 Repayment Obligation pursuant to section 4011, subsection (a)(2)(A) and subsection
522 (a)(3)(A) of the WIIN Act, as set forth in Exhibit D, and any payments required
523 pursuant to section 4011, subsection (b) of the WIIN Act, to reflect the adjustment for
524 the final cost allocation as described in this Article, subsection (b), the Contractor's
525 Project construction and other obligations shall be determined in accordance with: (i)
526 the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's
527 then-existing ratesetting policy for M&I Water, consistent with the WIIN Act; and such
528 ratesetting policies shall be amended, modified, or superseded only through a public
529 notice and comment procedure; (ii) applicable Federal Reclamation law and associated
530 rules and regulations, or policies, and (iii) other applicable provisions of this Contract.
531 Payments shall be made by cash transaction, electronic funds transfers, or any other
532 mechanism as may be agreed to in writing by the Contractor and the Contracting Officer.
533 The Rates and Charges applicable to the Contractor upon execution of this Contract are

534 set forth in Exhibit “B,” as may be revised annually. Upon complete repayment of the
535 Repayment Obligation, this Contract is amended to delete the reference to the Tiered
536 Pricing Component.

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

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

545 (A) The amount due and payable to the United States, pursuant
546 to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been
547 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth
548 as a lump sum payment (M&I and Irrigation) and as four (4) approximately equal annual
549 installments (Irrigation Only) to be repaid no later than three (3) years after the effective date of
550 this Contract as set forth in Exhibit D. The Repayment Obligation is due in lump sum by
551 **[Month Day, Year]** as provided by the WIIN Act. The Contractor must provide appropriate
552 notice to the Contracting Officer in writing no later than thirty (30) days prior to **[Month Day,**
553 **Year] [Division Level: consider the effective date of the contract being converted]** if
554 electing to repay the amount due using the lump sum alternative. If such notice is not provided
555 by such date, the Contractor shall be deemed to have elected the installment payment alternative,

556 in which case, the first such payment shall be made no later than **[Month Day, Year] [Division**
557 **Level: consider the effective date of the contract being converted]**. The second payment
558 shall be made no later than the first anniversary of the first payment date. The third payment
559 shall be made no later than the second anniversary of the first payment date. The final payment
560 shall be made no later than **[Month Day, Year] [no later than the third anniversary of the**
561 **effective date of the contract]**. If the installment payment option is elected by the Contractor,
562 the Contractor may pre-pay the remaining portion of the Repayment Obligation by giving the
563 Contracting Officer sixty (60) days written notice, in which case, the Contracting Officer shall
564 re-compute the remaining amount due to reflect the pre-payment using the same methodology as
565 was used to compute the initial annual installment payment amount, which is illustrated in
566 Exhibit D. Notwithstanding any Additional Capital Obligation that may later be established,
567 receipt of the Contractor's payment of the Repayment Obligation to the United States shall fully
568 and permanently satisfy the Existing Capital Obligation.

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

578 established by the Contractor and the Contracting Officer to accomplish repayment of the
579 Additional Capital Obligation assigned to the Contractor within the timeframe prescribed by the
580 WIIN Act, subject to the following:

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

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

593 (b) In the event that the final cost allocation referenced in Section 4011(b) of
594 the WIIN Act determines that the costs properly assignable to the Contractor are greater than
595 what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining
596 allocated costs. The term of such additional repayment contract shall be not less than one (1)
597 year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate
598 of repayment of such amount may be developed by the Contractor and Contracting Officer. In
599 the event that the final cost allocation indicates that the costs properly assignable to the

600 Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such
601 overpayment as an offset against any outstanding or future obligations of the Contractor, with the
602 exception of Restoration Fund charges pursuant to section 3407(d) of Pub. L. 102-575.

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

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

614 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
615 shall make available to the Contractor an estimate of the Rates for Project Water for the
616 following Year and the computations and cost allocations upon which those Rates are based.
617 The Contractor shall be allowed not less than two months to review and comment on such
618 computations and cost allocations. By December 31 of each Calendar Year, the Contracting
619 Officer shall provide the Contractor with the final Rates to be in effect for the upcoming Year,
620 and such notification shall revise Exhibit "B."

621 (d) At the time the Contractor submits the initial schedule for the delivery of

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

644 delivery of Project Water rescheduled under subdivision (g) of Article 3 of this Contract
645 if such water is not delivered by the last day of February.

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

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

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

664 (h) All revenues received by the United States from the Contractor
665 relating to the delivery of Project Water or the delivery of non-Project water through

666 Project facilities shall be allocated and applied in accordance with Federal Reclamation
667 law and the associated rules or regulations, and the then-current Project ratesetting policies
668 for M&I Water or Irrigation Water.

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

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

685 (k) Omitted

686 (l) For the term of this Contract, Rates applied under the respective
687 ratesetting policies will be established to recover only reimbursable O&M (including any

688 deficits) and capital costs of the Project, as those terms are used in the then-current Project
689 ratesetting policies, and interest, where appropriate, except in instances where a minimum
690 Rate is applicable in accordance with the relevant Project ratesetting policy. Changes of
691 significance in practices which implement the Contracting Officer's ratesetting policies will
692 not be implemented until the Contracting Officer has provided the Contractor an opportunity
693 to discuss the nature, need, and impact of the proposed change.

694 (m) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
695 CVPIA, the Rates for Project Water transferred by the Contractor shall be the
696 Contractor's Rates, in accordance with the applicable Project ratesetting policy, adjusted
697 upward or downward to reflect the changed costs, if any, incurred by the Contracting Officer
698 in the delivery of the transferred Project Water to the transferee's point of delivery. If the
699 Contractor is receiving lower Rates and Charges because of inability to pay and is
700 transferring Project Water to another entity whose Rates and Charges are not adjusted
701 due to inability to pay, the Rates and Charges for transferred Project Water shall not be
702 adjusted to reflect the Contractor's inability to pay.

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

705 NON-INTEREST BEARING O&M DEFICITS

706 8. The Contractor and the Contracting Officer concur that, as of the effective date
707 of this Contract the Contractor has no non-interest bearing O&M deficits and shall have
708 no further liability therefore.

709 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

722 (b) In order to facilitate efficient water management by means of water
723 transfers of the type historically carried out among Project Contractors located within the
724 same geographical area and to allow the Contractor to participate in an accelerated water
725 transfer program during the term of this Contract, the Contracting Officer shall prepare, as
726 appropriate, all necessary environmental documentation, including, but not limited to,
727 documents prepared pursuant to the NEPA and ESA, analyzing annual transfers within
728 such geographical areas and the Contracting Officer shall determine whether such
729 transfers comply with applicable law. Following the completion of the environmental
730 documentation, such transfers addressed in such documentation shall be conducted with

731 advance notice to the Contracting Officer, but shall not require prior written approval by
732 the Contracting Officer. Such environmental documentation and the Contracting
733 Officer's compliance determination shall be reviewed every five years and updated, as
734 necessary, prior to the expiration of the then existing five (5)-year period. All subsequent
735 environmental documentation shall include an alternative to evaluate not less than the quantity of
736 Project Water historically transferred within the same geographical area.

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

748 APPLICATION OF PAYMENTS AND ADJUSTMENTS

749 10. (a) The amount of any overpayment by the Contractor of the Contractor's
750 O&M, capital, and deficit (if any) obligations for the Year shall be applied first to any current
751 liabilities of the Contractor arising out of this Contract then due and payable.
752 Overpayments of more than \$1,000 shall be refunded at the Contractor's request. In lieu of a

753 refund, any amount of such overpayment, at the option of the Contractor, may be credited
754 against amounts to become due to the United States by the Contractor. With respect to
755 overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or
756 anyone having or claiming to have the right to the use of any of the Project Water supply
757 provided for herein. All credits and refunds of overpayments shall be made within 30
758 days of the Contracting Officer obtaining direction as to how to credit or refund such
759 overpayment in response to the notice to the Contractor that it has finalized the accounts for the
760 Year in which the overpayment was made.

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

767 TEMPORARY REDUCTIONS—RETURN FLOWS

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

773 (b) The Contracting Officer or Operating Non-Federal Entity(ies) may
774 temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as

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

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

791 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

797 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting
798 or other similar operational errors affecting the Project; drought and other physical or natural
799 causes beyond the control of the Contracting Officer; or actions taken by the Contracting

800 Officer to meet current and future legal obligations, then, except as provided in subdivision (a) of
801 Article 17 of this Contract, no liability shall accrue against the United States or any of its
802 officers, agents, or employees for any damage, direct or indirect, arising therefrom.

803 (c) In any Year in which there may occur a Condition of Shortage for any of
804 the reasons specified in subdivision (b) of this Article, and subject to subdivision (d) of this
805 Article, the Contracting Officer will first allocate the available Project Water consistent
806 with the Project M&I Water Shortage Policy in its form applicable under Article 12(c) of water
807 service contracts in effect on the date of this Contract which provide water service from
808 Delta Division Facilities for determining the amount of Project Water Available for
809 delivery to the Project Contractors. Subject to the foregoing allocation, in any year in
810 which there may occur a Condition of Shortage, the Contracting Officer shall then
811 apportion Project Water among the Contractor and others entitled to Project Water from
812 Delta Division Facilities under long-term water service or repayment contracts (or
813 renewals thereof or binding commitments therefore) in force on February 28, 2005, as
814 follows:

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

822 (2) A determination shall be made of the total quantity of Project

823 Water that is available for meeting the scheduled total, the quantity so determined being
824 hereinafter referred to as the available supply;

825 (3) The total quantity of Project Water estimated to be scheduled or
826 actually scheduled by the Contractor during the relevant Year, under subdivision (b) of
827 Article 4 hereof, shall be divided by the scheduled total, the quotient thus obtained being
828 hereinafter referred to as the Contractor's proportionate share; and

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

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

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

850 (e) Omitted

851 UNAVOIDABLE GROUNDWATER PERCOLATION

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

856 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

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

862 PROTECTION OF WATER AND AIR QUALITY

863 15. (a) The Contractor, without expense to the United States, will care for,
864 operate and maintain transferred works in a manner that preserves the quality of the water at the
865 highest feasible level as determined by the Contracting Officer.

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

871 (c) The Contractor will comply with all applicable water and air pollution
872 laws and regulations of the United States and the State of California; and will obtain all required

873 permits or licenses from the appropriate Federal, State, or local authorities necessary for the
874 delivery of water by the Contractor; and shall be responsible for compliance with all Federal,
875 State, and local water quality standards applicable to surface and subsurface drainage and/or
876 discharges generated through the use of Federal or Contractor facilities or Project Water
877 provided by the Contractor within its Service Area.

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

880 (e) The Contracting Officer shall notify the Contractor in writing when
881 drainage service becomes available. Thereafter, the Contracting Officer shall provide
882 drainage service to the Contractor at rates established pursuant to the then-existing
883 ratesetting policy for Irrigation Water; *Provided, That* such ratesetting policy shall be
884 amended, modified, or superseded only through the process described in subdivision (a)
885 of Article 7 of this Contract.

886 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED
887 STATES

888 16. (a) Water or water rights now owned or hereafter acquired by the Contractor
889 other than from the United States and Irrigation Water furnished pursuant to the terms of
890 this Contract may be simultaneously transported through the same distribution facilities
891 of the Contractor subject to the following: (i) if the facilities utilized for commingling
892 Irrigation Water and non-Project water were constructed without funds made available
893 pursuant to Federal Reclamation law, the provisions of Federal Reclamation law will be
894 applicable only to the Landholders of lands which receive Irrigation Water; (ii) the
895 eligibility of land to receive Irrigation Water must be established through the certification
896 requirements as specified in the Acreage Limitation Rules and Regulations (43 CFR Part
897 426); (iii) the water requirements of Eligible Lands within the Contractor's Service Area

898 can be established and the quantity of Irrigation Water to be utilized is less than or equal to
899 the quantity necessary to irrigate such Eligible Lands; and (iv) if the facilities utilized for
900 commingling Irrigation Water and non-Project water are (were) constructed with funds
901 made available pursuant to Federal Reclamation law, the non-Project water will be
902 subject to the acreage limitation provisions of Federal Reclamation law, unless the
903 Contractor pays to the United States the incremental fee described in 43 CFR 426.15. In
904 determining the incremental fee, the Contracting Officer will calculate annually the cost
905 to the Federal Government, including interest, of storing or delivering non-Project water,
906 which for purposes of this Contract shall be determined as follows: The quotient shall
907 be the unpaid distribution system costs divided by the total irrigable acreage within the
908 Contractor's Service Area. The incremental fee per acre is the mathematical result of
909 such quotient times the interest rate determined using Section 202 (3) of the Act of
910 October 12, 1982 (96 Stat. 1263). Such incremental fee will be charged to each acre of
911 excess or full-cost land within the Contractor's Service Area that receives non-Project
912 water through Federally financed or constructed facilities. The incremental fee calculation
913 methodology will continue during the term of this Contract absent the promulgation of a
914 contrary Bureau of Reclamation-wide rule, regulation, or policy adopted after the
915 Contractor has been afforded the opportunity to review and comment on the proposed
916 rule, regulation, or policy. If such rule, regulation, or policy is adopted, it shall supersede
917 this provision.

918 (b) Water or water rights now owned or hereafter acquired by the
919 Contractor, other than from the United States may be stored, conveyed, and/or diverted

920 through Project facilities, subject to the completion of appropriate environmental
921 documentation, with the approval of the Contracting Officer and the execution of any
922 contract determined by the Contracting Officer to be necessary, consistent with the
923 following provisions:

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

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

937 (3) Neither the United States nor the Operating Non-Federal
938 Entity(ies) shall be responsible for control, care, or distribution of the non-Project water
939 before it is introduced into or after it is delivered from the Project facilities. The
940 Contractor hereby releases and agrees to defend and indemnify the United States and the
941 Operating Non-Federal Entity(ies), and their respective officers, agents, and employees,

942 from any claim for damage to persons or property, direct or indirect, resulting from the
943 act(s) of the Contractor, its officers, employees, agents, or assigns, in (i) extracting or
944 diverting non-Project water from any source, or (ii) diverting such non-Project water into
945 Project facilities.

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

949 (5) After Project purposes are met, as determined by the
950 Contracting Officer, the United States and Project Contractors entitled to Project Water
951 from Delta Division Facilities shall share priority to utilize the remaining capacity of the
952 facilities declared to be available by the Contracting Officer for conveyance and
953 transportation of non-Project water prior to any such remaining capacity being made
954 available to non-Project contractors. Other Project Contractors shall have a second priority
955 to any remaining capacity of facilities declared to be available by the Contracting Officer
956 for conveyance and transportation of non-Project water prior to any such remaining
957 capacity being made available to non-Project contractors.

958 OPINIONS AND DETERMINATIONS

959 17. (a) Where the terms of this Contract provide for actions to be based upon
960 the opinion or determination of either party to this Contract, said terms shall not be
961 construed as permitting such action to be predicated upon arbitrary, capricious, or
962 unreasonable opinions or determinations. Both parties, notwithstanding any other
963 provisions of this Contract, expressly reserve the right to seek relief from and appropriate

964 adjustment for any such arbitrary, capricious, or unreasonable opinion or determination.
965 Each opinion or determination by either party shall be provided in a timely manner.
966 Nothing in this subdivision (a) of this Article is intended to or shall affect or alter the
967 standard of judicial review applicable under Federal law to any opinion or determination
968 implementing a specific provision of Federal law embodied in statute or regulation.

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

974 COORDINATION AND COOPERATION

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

985 (b) Within 120 days following the effective date of this Contract, the

986 Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to
987 meet with interested Project Contractors to develop a mutually agreeable, written Project-
988 wide process, which may be amended as necessary separate and apart from this Contract.
989 The goal of this process shall be to provide, to the extent practicable, the means of
990 mutual communication and interaction regarding significant decisions concerning
991 Project O&M on a real-time basis.

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

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

999 (2) The Secretary will, as appropriate, pursue program and project
1000 implementation and authorization in coordination with Project Contractors to improve the
1001 water supply, water quality, and reliability of the Project for all Project purposes.

1002 (3) The Secretary will coordinate with Project Contractors and the
1003 State of California to seek improved water resource management.

1004 (4) The Secretary will coordinate actions of agencies within the
1005 Department of the Interior that may impact the availability of water for Project purposes.

1006 (5) The Contracting Officer shall periodically, but not less than
1007 annually, hold division-level meetings to discuss Project operations, division-level water

1008 management activities, and other issues as appropriate.

1009 (d) Without limiting the contractual obligations of the Contracting Officer
1010 under the other Articles of this Contract, nothing in this Article shall be construed to limit
1011 or constrain the Contracting Officer's ability to communicate, coordinate, and cooperate
1012 with the Contractor or other interested stakeholders or to make decisions in a timely fashion
1013 as needed to protect health, safety, or the physical integrity of structures or facilities.

1014 CHARGES FOR DELINQUENT PAYMENTS

1015 19. (a) The Contractor shall be subject to interest, administrative, and penalty
1016 charges on delinquent payments. If a payment is not received by the due date, the
1017 Contractor shall pay an interest charge on the delinquent payment for each day the payment
1018 is delinquent beyond the due date. If a payment becomes 60 days delinquent, the
1019 Contractor shall pay, in addition to the interest charge, an administrative charge to
1020 cover additional costs of billing and processing the delinquent payment. If a payment is
1021 delinquent 90 days or more, the Contractor shall pay, in addition to the interest and
1022 administrative charges, a penalty charge for each day the payment is delinquent beyond the
1023 due date, based on the remaining balance of the payment due at the rate of 6 percent per
1024 year. The Contractor shall also pay any fees incurred for debt collection services associated
1025 with a delinquent payment.

1026 (b) The interest rate charged shall be the greater of either the rate prescribed
1027 quarterly in the Federal Register by the Department of the Treasury for application to
1028 overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged
1029 will be determined as of the due date and remain fixed for the duration of the delinquent
1030 period.

1031 (c) When a partial payment on a delinquent account is received, the amount
1032 received shall be applied first to the penalty charges, second to the administrative charges,
1033 third to the accrued interest, and finally to the overdue payment.

1034 EQUAL EMPLOYMENT OPPORTUNITY

1035 20. During the performance of this Contract, the Contractor agrees as follows:

1036 (a) The Contractor will not discriminate against any employee or applicant
1037 for employment because of race, color, religion, sex, sexual orientation, gender identity, or

1038 national origin. The Contractor will take affirmative action to ensure that applicants are
1039 employed, and that employees are treated during employment, without regard to their race,
1040 color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall
1041 include, but not be limited to, the following: employment, upgrading, demotion, or
1042 transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other
1043 forms of compensation; and selection for training, including apprenticeship. The Contractor
1044 agrees to post in conspicuous places, available to employees and applicants for employment,
1045 notices to be provided by the Contracting Officer setting forth the provisions of this
1046 nondiscrimination clause.

1047 (b) The Contractor will, in all solicitations or advertisements for employees
1048 placed by or on behalf of the Contractor, state that all qualified applicants will receive
1049 consideration for employment without regard to race, color, religion, sex, sexual orientation,
1050 gender identity, or national origin.

1051 (c) The Contractor will not discharge or in any other manner discriminate
1052 against any employee or applicant for employment because such employee or applicant has
1053 inquired about, discussed, or disclosed the compensation of the employee or applicant or
1054 another employee or applicant. This provision shall not apply to instances in which an
1055 employee who has access to the compensation information of other employees or applicants as
1056 part of such employee's essential job functions discloses the compensation of such other
1057 employees or applicants to individuals who do not otherwise have access to such information,
1058 unless such disclosure is in response to a formal complaint or charge, in furtherance of an
1059 investigation, proceeding, hearing, or action, including an investigation conducted by the
1060 employer, or is consistent with the Contractor's legal duty to furnish information.

1061 (d) The Contractor will send to each labor union or representative of
1062 workers with which it has a collective bargaining agreement or other contract or understanding,
1063 a notice, to be provided by the Contracting Officer, advising the labor union or workers'
1064 representative of the Contractor's commitments under section 202 of Executive Order No.
1065 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places
1066 available to employees and applicants for employment.

1067 (e) The Contractor will comply with all provisions of Executive Order No.
1068 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary
1069 of Labor.

1070 (f) The Contractor will furnish all information and reports required by
1071 Executive Order No. 11246 of Sept. 24, 1965, and by the rules, regulations, and orders of
1072 the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and
1073 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation
1074 to ascertain compliance with such rules, regulations, and orders.

1075 (g) In the event of the Contractor's noncompliance with the
1076 nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this
1077 Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may
1078 be declared ineligible for further Government contracts in accordance with procedures
1079 authorized in Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may
1080 be imposed and remedies invoked as provided in Executive Order No. 11246 of Sept. 24,
1081 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by
1082 law.

1083 (h) The Contractor will include the provisions of paragraphs (a) through (g)
1084 in every subcontract or purchase order unless exempted by the rules, regulations, or orders
1085 of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of Sept.
1086 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The
1087 Contractor will take such action with respect to any subcontract or purchase order as may be
1088 directed by the Secretary of Labor as a means of enforcing such provisions, including
1089 sanctions for noncompliance: *Provided, however, That* in the event the Contractor
1090 becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a
1091 result of such direction, the Contractor may request the United States to enter into such
1092 litigation to protect the interests of the United States.

1093 GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

1094 21. (a) The obligation of the Contractor to pay the United States as provided in
1095 this Contract is a general obligation of the Contractor notwithstanding the manner in which the
1096 obligation may be distributed among the Contractor's water users and notwithstanding the default
1097 of individual water users in their obligation to the Contractor.

1098 (b) The payment of charges becoming due pursuant to this Contract is a
1099 condition precedent to receiving benefits under this Contract. The United States shall not make
1100 water available to the Contractor through Project facilities during any period in which the
1101 Contractor is in arrears in the advance payment of water rates due the United States. The
1102 Contractor shall not deliver water under the terms and conditions of this Contract for lands or
1103 parties that are in arrears in the advance payment of water rates as levied or established by the
1104 Contractor.

1105 (c) With respect to subdivision (b) of this Article, the Contractor shall have no
1106 obligation to require advance payment for water rates which it levies.

1107

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1108 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
 1109 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as
 1110 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title
 1111 III; 42 U.S.C. 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-
 1112 336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the
 1113 applicable implementing regulations and any guidelines imposed by the U.S.
 1114 Department of the Interior and/or Bureau of Reclamation.

1115 (b) These statutes prohibit any person in the United States from being
 1116 excluded from participation in, being denied the benefits of, or being otherwise subjected to
 1117 discrimination under any program or activity receiving financial assistance from the Bureau
 1118 of Reclamation on the grounds of race, color, national origin, disability, or age. By
 1119 executing this Contract, the Contractor agrees to immediately take any measures necessary
 1120 to implement this obligation, including permitting officials of the United States to inspect
 1121 premises, programs, and documents.

1122 (c) The Contractor makes this Contract in consideration of and for the
 1123 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
 1124 Federal financial assistance extended after the date hereof to the Contractor by the Bureau
 1125 of Reclamation, including installment payments after such date on account of
 1126 arrangements for Federal financial assistance which were approved before such date.
 1127 The Contractor recognizes and agrees that such Federal assistance will be extended in
 1128 reliance on the representations and agreements made in this Article and that the United
 1129 States reserves the right to seek judicial enforcement thereof.

1130 (d) Complaints of discrimination against the Contractor shall be investigated
 1131 by the Contracting Officer's Office of Civil Rights.

1132

PRIVACY ACT COMPLIANCE

1133 23. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act)
 1134 (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy
 1135 Act (43 C.F.R. § 2.45, et seq.) in maintaining landholder certification and reporting
 1136 records required to be submitted to the Contractor for compliance with Sections 206,
 1137 224(c), and 228 of the Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and
 1138 390zz), and pursuant to 43 C.F.R. § 426.18.

1139 (b) With respect to the application and administration of the criminal penalty
 1140 provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's
 1141 employees who are responsible for maintaining the certification and reporting records
 1142 referenced in paragraph (a) above are considered to be employees of the Department of the
 1143 Interior. See 5 U.S.C. § 552a(m).

1144 (c) The Contracting Officer or a designated representative shall provide the
1145 Contractor with current copies of the Department of the Interior Privacy Act regulations
1146 and the Bureau of Reclamation Federal Register Privacy Act System of Records Notice
1147 (Interior/WBR-31, Acreage Limitation) which govern the maintenance, safeguarding,
1148 and disclosure of information contained in the landholders' certification and reporting
1149 records.

1150 (d) The Contracting Officer shall designate a full-time employee of the
1151 Bureau of Reclamation to be the System Manager responsible for making decisions on
1152 denials pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43
1153 C.F.R. § 2.72. The Contractor is authorized to grant requests by individuals for access to
1154 their own records.

1155 (e) The Contractor shall forward promptly to the System Manager each
1156 proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of
1157 records filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral;
1158 and provide the System Manager with information and records necessary to prepare an
1159 appropriate response to the requester. These requirements do not apply to individuals
1160 seeking access to their own certification and reporting forms filed with the Contractor
1161 pursuant to 43 C.F.R. § 426.18 unless the requester elects to cite the Privacy Act as an
1162 authority for the request.

1163 (f) Upon complete payment of the Repayment Obligation by the
1164 Contractor, this Article 23 will no longer be applicable.

1165 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1166 24. In addition to all other payments to be made by the Contractor pursuant to this
1167 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill
1168 and detailed statement submitted by the Contracting Officer to the Contractor for such
1169 specific items of direct cost incurred by the United States for work requested by the
1170 Contractor associated with this Contract plus indirect costs in accordance with applicable
1171 Bureau of Reclamation policies and procedures. All such amounts referred to in this
1172 Article shall not exceed the amount agreed to in writing in advance by the Contractor.
1173 This Article shall not apply to costs for routine contract administration.

1174

WATER CONSERVATION

1175 25. (a) Prior to the delivery of water provided from or conveyed through
1176 Federally constructed or Federally financed facilities pursuant to this Contract, the
1177 Contractor shall develop a water conservation plan, as required by subsection 210(b) of the
1178 Reclamation Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and
1179 Regulations).

1180 Additionally, an effective water conservation and efficiency program shall be based on the
1181 Contractor's water conservation plan that has been determined by the Contracting Officer to
1182 meet the conservation and efficiency criteria for evaluating water conservation plans
1183 established under Federal law. The water conservation and efficiency program shall
1184 contain definite water conservation objectives, appropriate economically feasible water
1185 conservation measures, and time schedules for meeting those objectives. Continued
1186 Project Water delivery pursuant to this Contract shall be contingent upon the
1187 Contractor's continued implementation of such water conservation program. In the
1188 event the Contractor's water conservation plan or any revised water conservation plan
1189 completed pursuant to subdivision (d) of this Article 25 have not yet been determined by
1190 the Contracting Officer to meet such criteria, due to circumstances which the
1191 Contracting Officer determines are beyond the control of the Contractor, water deliveries
1192 shall be made under this Contract so long as the Contractor diligently works with the
1193 Contracting Officer to obtain such determination at the earliest practicable date, and
1194 thereafter the Contractor immediately begins implementing its water conservation and
1195 efficiency program in accordance with the time schedules therein.

1196 (b) Should the amount of M&I Water delivered pursuant to subdivision
1197 (a) of Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year,

1198 the Contractor shall implement the Best Management Practices identified by the time
1199 frames issued by the Mid-Pacific Region's then-existing conservation and efficiency
1200 criteria for such M&I Water unless any such practice is determined by the Contracting
1201 Officer to be inappropriate for the Contractor.

1202 (c) The Contractor shall submit to the Contracting Officer a report on the
1203 status of its implementation of the water conservation plan on the reporting dates specified in the
1204 then-existing conservation and efficiency criteria established under Federal law.

1205 (d) At five (5)-year intervals, the Contractor shall revise its water
1206 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating
1207 water conservation plans established under Federal law and submit such revised water
1208 management plan to the Contracting Officer for review and evaluation. The Contracting Officer
1209 will then determine if the water conservation plan meets the Bureau of Reclamation's then-
1210 existing conservation and efficiency criteria for evaluating water conservation plans established
1211 under Federal law.

1212 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1213 shall be described in the Contractor's water conservation plan.

1214 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1215 26. Except as specifically provided in Article 16 of this Contract, the provisions
1216 of this Contract shall not be applicable to or affect non-Project water or water rights now owned
1217 or hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1218 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1219 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or

1220 any water user within the Contractor's Service Area acquires or has available under any other
1221 contract pursuant to Federal Reclamation law.

1222 OPERATION AND MAINTENANCE OF TRANSFERRED WORKS

1223 27. (a) Upon substantial completion of the Project works, or as otherwise
1224 determined by the Contracting Officer, and following written notification, the care, operation,
1225 and maintenance of any or all of those Project works may be transferred to the Contractor. Title
1226 to the transferred works will remain in the name of the United States, unless otherwise provided
1227 by the Congress of the United States.

1228 (b) The Contractor, without expense to the United States, will care for,
1229 operate, and maintain the transferred works in full compliance with the terms of this Contract
1230 and in such a manner that the transferred works remain in good and efficient condition.

1231 (c) Necessary repairs of the transferred works shall be made promptly by the
1232 Contractor. In case of unusual conditions or serious deficiencies in the care, operation, and
1233 maintenance of the transferred works threatening or causing interruption of water service, the
1234 Contracting Officer may issue to the Contractor a special written notice of those necessary
1235 repairs. Except in the case of an emergency, the Contractor will be given 60 days to either: 1)
1236 make the necessary repairs; or 2) submit a plan for accomplishing the repairs acceptable to the
1237 Contracting Officer that contains a timeframe for completing the necessary repairs. In the case
1238 of an emergency the written notice of necessary repairs will include a timeframe for completion
1239 of the repairs. If the Contractor fails to either: 1) make the necessary repairs within the identified
1240 timeframe; or 2) submit a plan for accomplishing the repairs acceptable to the Contracting
1241 Officer within 60 days of receipt of the notice and accomplish the repairs within the timeframe
1242 identified therein, the Contracting Officer may cause the repairs to be made, and the cost of those
1243 repairs shall be paid by the Contractor as directed by the Contracting Officer.

1244 (d) The Contractor shall not make any substantial changes in the transferred
1245 works without first obtaining written consent of the Contracting Officer. The Contractor will
1246 take all reasonable measures to prevent any unauthorized encroachment on project land and
1247 rights-of-way and address any such encroachment as soon as the Contractor becomes aware of its
1248 existence.

1249 (e) The Contractor agrees to indemnify the United States for, and hold the
1250 United States and all of its representatives harmless from, all damages resulting from suits,
1251 actions, or claims of any character, except for intentional torts committed by employees of the
1252 United States, brought on account of any injury to any person or property arising out of any act,
1253 omission, neglect, or misconduct in the manner or method of performing any construction, care,
1254 operation, maintenance, supervision, examination, inspection, or other duties of the Contractor or
1255 the United States on transferred works required under this Contract, regardless of who performs
1256 those duties.

1257 (f) The Contractor will cooperate with the Contracting Officer in
1258 implementing an effective dam safety program. The United States agrees to provide the
1259 Contractor and the appropriate agency of the State or States in which the Project facilities are
1260 located with design data, designs, and an operating plan for the dam(s) and related facilities
1261 consistent with the current memorandum of understanding between the United States and the
1262 State of California relating to the coordination of planning, design, construction, operation, and
1263 maintenance processes for dams and related facilities.

1264 (g) In the event the Contractor is found to be operating the transferred works
1265 or any part thereof in violation of this Contract or the Contractor is found to be failing any
1266 financial commitments or other commitments to the United States under the terms and conditions
1267 of this Contract, then upon the election of the Contracting Officer, the United States may take
1268 over from the Contractor the care, operation, and maintenance of the transferred works by giving
1269 written notice to the Contractor of such election and the effective date thereof. Thereafter,
1270 during the period of operation by the United States, upon notification by the Contracting Officer
1271 the Contractor will pay to the United States, annually in advance, the cost of operation and
1272 maintenance of the works as determined by the Contracting Officer. Following written
1273 notification from the Contracting Officer the care, operation, and maintenance of the works may
1274 be transferred back to the Contractor.

1275 (h) In addition to all other payments to be made by the Contractor under this
1276 Contract, the Contractor will reimburse to the United States, following the receipt of a statement
1277 from the Contracting Officer, all miscellaneous costs incurred by the United States for any work
1278 involved in the administration and supervision of this Contract.

1279 (i) Nothing in this article will be deemed to waive the sovereign immunity of
1280 the United States.

1281 O&M BY THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

1282 28. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1283 and responsibility for funding a portion of the costs of such O&M, have been transferred to the
1284 San Luis & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate
1285 agreement (8-07-20-X0354) between the United States and Operating Non-Federal Entity San
1286 Luis & Delta-Mendota Water Authority. That separate agreement shall not interfere with or
1287 affect the rights or obligations of the Contractor or the United States hereunder.

1288 (b) The Contracting Officer has previously notified the Contractor in
1289 writing that the Operation and Maintenance of a portion of the Project facilities which
1290 serve the Contractor has been transferred to the Operating Non-Federal Entity, and
1291 therefore, the Contractor shall pay directly to the Operating Non-Federal Entity, or to any
1292 successor approved by the Contracting Officer under the terms and conditions of the
1293 separate agreement between the United States and the Operating Non-Federal Entity
1294 described in subdivision (a) of this Article, all rates, charges, or assessments of any kind,
1295 including any assessment for reserve funds, which the Operating Non-Federal Entity or such
1296 successor determines, sets, or establishes for the Operation and Maintenance of the portion of the
1297 Project facilities operated and maintained by the Operating Non-Federal Entity or such
1298 successor. Such direct payments to Operating Non-Federal Entity or such successor shall
1299 not relieve the Contractor of its obligation to pay directly to the United States the
1300 Contractor's share of the Project Rates and Charges except to the extent the Operating
1301 Non-Federal Entity collects payments on behalf of the United States in accordance with
1302 the separate agreement identified in subdivision (a) of this Article.

1303 (c) For so long as the O&M of any portion of the Project facilities
1304 serving the Contractor is performed by Operating Non-Federal Entity San Luis &
1305 Delta-Mendota Water Authority, or any successor thereto, the Contracting Officer
1306 shall adjust those components of the Rates for Water Delivered under this Contract
1307 representing the cost associated with the activity being performed by Operating Non-
1308 Federal Entity San Luis & Delta-Mendota Water Authority, or its successor.

1309 (d) In the event the Operation and Maintenance of the Project facilities
1310 operated and maintained by the Operating Non-Federal Entity is re-assumed by the
1311 United States during the term of this Contract, the Contracting Officer shall so notify the
1312 Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall
1313 include the portion of the Rates to be paid by the Contractor for Project Water under this
1314 Contract representing the Operation and Maintenance costs of the portion of such Project
1315 facilities which have been re-assumed. The Contractor shall, thereafter, in the absence of written
1316 notification from the Contracting Officer to the contrary, pay the Rates and Charges specified in
1317 the revised Exhibit "B" directly to the United States in compliance with Article 7 of this
1318 Contract.

1319 O&M BY THE CALIFORNIA DEPARTMENT OF WATER RESOURCES

1320 28.1 (a) The O&M of a portion of the Project facilities which serve the Contractor,
1321 and responsibility for funding a portion of the costs of such O&M, have been transferred to the
1322 California Department of Water Resources, an Operating Non-Federal Entity by a separate
1323 agreement (14-06-200-9755) between the United States and Operating Non-Federal
1324 Entity California Department of Water Resources. This separate agreement shall not
1325 interfere with or affect the rights or obligations of the Contractor or the United States
1326 hereunder.

1327 (b) The Contracting Officer has previously notified the Contractor in writing
1328 that the O&M of a portion of the Project facilities which serve the Contractor has been
1329 transferred to the Operating Non-Federal Entity California Department of Water

1330 Resources, and the Contractor shall pay directly to Operating Non-Federal Entity San
1331 Luis & Delta-Mendota Water Authority, or to any successor approved by the Contracting
1332 Officer under the terms and conditions of the separate agreement between the United
1333 States and Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority,
1334 described in subdivision (a) of Article 28 of this Contract, all rates, charges, or assessments of
1335 any kind, including any assessment for reserve funds, which Operating Non-Federal Entity
1336 California Department of Water Resources, or such successor determines, sets, or establishes for
1337 the O&M of the conveyance and conveyance pumping portion of the Project facilities
1338 operated and maintained by Operating Non-Federal Entity California Department of
1339 Water Resources, or such successor. Such direct payments to Operating Non-Federal
1340 Entity San Luis & Delta-Mendota Water Authority, or such successor, shall not relieve
1341 the Contractor of its obligation to pay directly to the United States the Contractor's
1342 share of the Project Rates and Charges except to the extent the Operating Non-Federal
1343 Entity San Luis & Delta-Mendota Water Authority collects payments on behalf of the
1344 United States in accordance with the separate agreement identified in subdivision (a)
1345 of Article 28 of this Contract.

1346 (c) For so long as the O&M of any portion of the Project facilities serving
1347 the Contractor is performed by Operating Non-Federal Entity California Department of
1348 Water Resources, or any successor thereto, the Contracting Officer shall adjust those
1349 components of the Rates for Water Delivered under this Contract representing the cost associated
1350 with the activity being performed by Operating Non-Federal Entity California Department of
1351 Water Resources, or its successor.

1352 (d) In the event the O&M of the Project facilities operated and maintained by
1353 Operating Non-Federal Entity California Department of Water Resources is re-assumed by the
1354 United States during the term of this Contract, the Contracting Officer shall so notify the
1355 Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall
1356 include the portion of the Rates and Charges, to be paid by the Contractor for Project
1357 Water under this Contract representing the O&M costs of the portion of such Project
1358 facilities which have been re-assumed. The Contractor shall, thereafter, in the absence of
1359 written notification from the Contracting Officer to the contrary, pay the Rates and Charges
1360 specified in the revised Exhibit "B" directly to the United States in compliance with
1361 Article 7 of this Contract.

1362 O&M BY THE CONTRACTOR

1363 28.2 (a) During the term of this Contract, the Contractor shall act as the Operating
1364 Non-Federal Entity for a portion of the Project facilities which serves the California Department
1365 of Fish and Wildlife (formally referred to as California Department of Fish and Game), the City
1366 of Huron, and the City of Coalinga, including but not limited to the Coalinga Canal System,
1367 which consists in part of the Coalinga Canal and turnouts and Pleasant Valley Pumping Plant.
1368 The Contractor, without expense to the United States, shall care for, operate, and maintain such
1369 portion of the Project facilities for the furnishing of water to the California Department of Fish
1370 and Wildlife, the City of Huron, and the City of Coalinga in full compliance with Federal
1371 Reclamation law and in such manner that they will remain in good and efficient condition;
1372 Provided, That the United States shall finance the costs of all major replacements of such
1373 facilities that the Contracting Officer determines are needed; Provided, further, That if the

1374 California Department of Fish and Wildlife, the City of Huron, or the City of Coalinga
1375 fails to pay to the Contractor in advance such entity's share of the O&M costs, consistent
1376 with any agreements between the Contractor and the California Department of Fish and
1377 Wildlife, the City of Huron, or the City of Coalinga, respectively, the Contractor shall be
1378 relieved of its obligation to the O&M of such facilities for the benefit of the non-paying entity.

1379 (b) The Contracting Officer previously notified the California Department of
1380 Fish and Wildlife, the City of Huron, and the City of Coalinga in writing that the O&M of a
1381 portion of the Project facilities which serves the California Department of Fish and
1382 Wildlife, the City of Huron, and the City of Coalinga has been transferred to the Contractor.
1383 Therefore, the California Department of Fish and Wildlife, the City of Huron, and the City of
1384 Coalinga have entered separate agreements with the Contractor providing the terms and
1385 conditions pursuant to which the Contractor will operate and maintain a portion of the
1386 Project facilities which serves the California Department of Fish and Wildlife, the City of
1387 Huron, and the City of Coalinga, including the amount(s) the California Department of
1388 Fish and Wildlife, the City of Huron, and the City of Coalinga are to pay the Contractor
1389 for that service. Consistent with any such agreements, the California Department of Fish
1390 and Wildlife, the City of Huron, and the City of Coalinga shall pay directly to the
1391 Contractor all rates, charges, or assessments of any kind, including any assessment for
1392 reserve funds, which the Contractor sets or establishes for a portion of the Project facilities which
1393 serves the California Department of Fish and Wildlife, the City of Huron, and the City of
1394 Coalinga and is operated and maintained by the Contractor. Such direct payments to the
1395 Contractor shall not relieve the Contractor of its obligation to pay directly to the United

1396 States the California Department of Fish and Wildlife, the City of Huron, and the City
1397 of Coalinga its share of the Project Rates and Charges referred to in this Contract.

1398 (c) For so long as the O&M for a portion of the Project facilities which serves
1399 the California Department of Fish and Wildlife, the City of Huron, and the City of Coalinga is
1400 performed by the Contractor, the Contracting Officer shall adjust those components of the Rates
1401 for Water Delivered under the Contracts representing the cost associated with the activity being
1402 performed by the Contractor.

1403 (d) The United States may re-assume O&M for a portion of the Project
1404 facilities which serves the California Department of Fish and Wildlife, the City of Huron, and the
1405 City of Coalinga. In that event, the Contracting Officer shall so notify the California Department
1406 of Fish and Wildlife, the City of Huron, and the City of Coalinga, in writing, and present to
1407 the Contractor a revised Exhibit "B" which shall include the portion of the Rates and Charges
1408 to be paid by the California Department of Fish and Wildlife, the City of Huron, and the City of
1409 Coalinga for Project Water under this Contract representing the O&M costs for a portion of the
1410 Project facilities which serves the California Department of Fish and Wildlife, the City of
1411 Huron, and the City of Coalinga. The California Department of Fish and Wildlife, the
1412 City of Huron, and the City of Coalinga shall, thereafter, in the absence of written
1413 notification from the Contracting Officer to the contrary, pay the Rates and Charges
1414 specified in the revised Exhibit "B" directly to the United State in compliance with Article
1415 7 of their contracts. The Contractor shall, thereafter, be relieved of all of its obligations
1416 under this Article 28.2.

1417 PUMPING PLANTS, POWER FOR PUMPING PLANTS

1418 28.3. (a) The United States shall furnish and install pumping plants and furnish
1419 the amount of Project power the Contracting Officer determines is necessary to deliver Project
1420 Water to the Contractor from the Delta-Mendota, San Luis, and Coalinga Canals, including the
1421 Pleasant Valley Pumping Plant, at the point(s) of delivery identified pursuant to subdivision
1422 (a) of Article 5 of this Contract at heads and elevations sufficient to irrigate by gravity the
1423 areas within the Contractor's Service Area below 700 feet mean sea level elevation.

1424 (b) With advance approval of the Contracting Officer, the Contractor
1425 may, at its own expense, furnish and install pumping facilities, and related electrical
1426 equipment, to enable it to divert and deliver Project Water from the Delta-Mendota, San
1427 Luis, and Coalinga Canals and the Pleasant Valley Pumping Plant before the United States
1428 furnishes and installs all the pumping plants referred to in subdivision (a) of this Article.
1429 The United States shall furnish the amount of Project power needed to operate such
1430 pumping facilities; *Provided, That* the Contractor maintains an agreement with an entity
1431 to convey such power to such facilities, and the Contractor agrees to pay any and all
1432 charges assessed by that entity for such service,

1433 (c) The furnishing of power by the United States shall be in conformance
1434 with operating criteria, rules, and regulations, including the Project use power policy,
1435 established by the Contracting Officer; *Provided, That* any such operating criteria, rules,
1436 and regulations, including the Project use power policy, established by the Contracting
1437 Officer shall not excuse the United States from its obligation under subdivision (a) of this
1438 Article. Such operating criteria, rules, and regulations shall be developed in cooperation

1439 with the Contractor and shall be based on acceptable irrigation management practices and the
1440 power generation capacity available to the United States for the furnishing of Project Water to
1441 the Contractor.

1442 (d) The Contracting Officer or his representative shall at all times have
1443 access to and may inspect and investigate the pumping facilities for the purpose of ascertaining
1444 if they are being kept in safe and proper operating condition.

1445 EXAMINATION, INSPECTION, AND AUDIT OF PROJECT WORKS, RECORDS, AND
1446 REPORTS FOR DETERMINING ADEQUACY OF OPERATION AND MAINTENANCE

1447 28.4. (a) The Contracting Officer may, from time to time, examine the following:
1448 the Contractor's books, records, and reports; the project works being operated by the Contractor;
1449 the adequacy of the operation and maintenance program[s]; the reserve fund; and the water
1450 conservation program including the water conservation fund, if applicable. Notwithstanding title
1451 ownership, where the United States retains a financial, physical, or liability interest in facilities
1452 either constructed by the United States or with funds provided by the United States, the
1453 Contracting Officer may examine any or all of the project works providing such interest to the
1454 United States.

1455 (b) The Contracting Officer may, or the Contractor may ask the Contracting
1456 Officer to, conduct special inspections of any project works being operated by the Contractor and
1457 special audits of the Contractor's books and records to ascertain the extent of any operation and
1458 maintenance deficiencies to determine the remedial measures required for their correction and to
1459 assist the Contractor in solving specific problems. Except in an emergency, any special
1460 inspection or audit shall be made only after written notice thereof has been delivered to the
1461 Contractor by the Contracting Officer.

1462 (c) The Contractor shall provide access to the project works, operate any
1463 mechanical or electrical equipment, and be available to assist in the examination, inspection, or
1464 audit.

1465 (d) The Contracting Officer shall prepare reports based on the examinations,
1466 inspections, or audits and furnish copies of such reports and any recommendations to the
1467 Contractor.

1468 (e) The costs incurred by the United States in conducting operation and
1469 maintenance examinations, inspections, and audits and preparing associated reports and
1470 recommendations related to high- and significant-hazard dams and associated facilities shall be

1471 nonreimbursable. Associated facilities include carriage, distribution, and drainage systems;
1472 pumping and pump-generating plants; powerplant structures; tunnels/pipelines; diversion and
1473 storage dams (low-hazard); Type 2 bridges which are Bureau of Reclamation-owned bridges not
1474 located on a public road; regulating reservoirs (low-hazard); fish passage and protective
1475 facilities, including hatcheries; river channelization features; rural/municipal water systems;
1476 desalting and other water treatment plants; maintenance buildings and service yards; facilities
1477 constructed under Federal loan programs (until paid out); and recreation facilities (reserved
1478 works only); and any other facilities as determined by the Contracting Officer.

1479 (e) (1) The Contractor shall reimburse the actual cost incurred by the
1480 United States in making O&M examinations, inspections, and audits, and preparing
1481 associated reports and recommendations.

1482 (f) Expenses incurred by the Contractor, as applicable, in participating in the
1483 operation and maintenance site examination will be borne by the Contractor.

1484 (g) Requests by the Contractor for consultations, design services, or
1485 modification reviews, and the completion of any operation and maintenance activities identified
1486 in the formal recommendations resulting from the examination (unless otherwise noted) are to be
1487 funded as project operation and maintenance and are reimbursable by the Contractor to the extent
1488 of current project operation and maintenance allocations.

1489 (h) Site visit special inspections that are beyond the regularly scheduled
1490 operation and maintenance examinations conducted to evaluate particular concerns or problems
1491 and provide assistance relative to any corrective action (either as a follow up to an operation and
1492 maintenance examination or when requested by the Contractor) shall be nonreimbursable.

1493 (i) The Contracting Officer may provide the State(s) an opportunity to
1494 observe and participate in, at its (their) own expense, the examinations and inspections. The
1495 State(s) may be provided copies of reports and any recommendations relating to such
1496 examinations and inspections.

1497 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1498 29. The expenditure or advance of any money or the performance of any obligation of
1499 the United States under this Contract shall be contingent upon appropriation or allotment
1500 of funds. Absence of appropriation or allotment of funds shall not relieve the Contractor
1501 from any obligations under this Contract. No liability shall accrue to the United States in case
1502 funds are not appropriated or allotted.

1503

BOOKS, RECORDS, AND REPORTS

1504 30. (a) The Contractor shall establish and maintain accounts and other books and
1505 records pertaining to administration of the terms and conditions of this Contract, including
1506 the Contractor's financial transactions; water supply data; project operations, maintenance, and
1507 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop
1508 census), land-ownership, land-leasing, and water-use data; and other matters that the
1509 Contracting Officer may require. Reports shall be furnished to the Contracting Officer
1510 in such form and on such date or dates as the Contracting Officer may require. Subject to
1511 applicable Federal laws and regulations, each party to this Contract shall have the right during
1512 office hours to examine and make copies of the other party's books and records relating to
1513 matters covered by this Contract.

1514 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1515 books, records, or other information shall be requested from the Contractor by the
1516 Contracting Officer unless such books, records, or information are reasonably related to the
1517 administration or performance of this Contract. Any such request shall allow the Contractor a
1518 reasonable period of time within which to provide the requested books, records, or
1519 information.

1520 (c) At such time as the Contractor provides information to the Contracting
1521 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided
1522 to the Operating Non-Federal Entity(ies).

1523 ASSIGNMENT LIMITED–SUCCESSORS AND ASSIGNS OBLIGATED

1524 31. (a) The provisions of this Contract shall apply to and bind the successors and
1525 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1526 therein by either party shall be valid until approved in writing by the other party.

1527 (b) The assignment of any right or interest in this Contract by either party
1528 shall not interfere with the rights or obligations of the other party to this Contract absent the
1529 written concurrence of said other party.

1530 (c) The Contracting Officer shall not unreasonably condition or withhold
1531 approval of any proposed assignment.

1532 SEVERABILITY

1533 32. In the event that a person or entity who is neither (i) a party to a Project contract,
1534 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
1535 an association or other form of organization whose primary function is to represent parties to
1536 Project contracts, brings an action in a court of competent jurisdiction challenging the
1537 legality or enforceability of a provision included in this Contract and said person, entity,
1538 association, or organization obtains a final court decision holding that such provision is
1539 legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in
1540 support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i)
1541 within 30 days of the date of such final court decision identify by mutual agreement the
1542 provisions in this Contract which must be revised and (ii) within three months thereafter
1543 promptly agree on the appropriate revision(s). The time periods specified above may be
1544 extended by mutual agreement of the parties. Pending the completion of the actions
1545 designated above, to the extent it can do so without violating any applicable provisions of
1546 law, the United States shall continue to make the quantities of Project Water specified in this
1547 Contract available to the Contractor pursuant to the provisions of this Contract which were not
1548 found to be legally invalid or unenforceable in the final court decision.

1549 RESOLUTION OF DISPUTES

1550 33. Should any dispute arise concerning any provisions of this Contract, or the
1551 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt

1552 to resolve the dispute. Prior to the Contractor commencing any legal action, or the
1553 Contracting Officer referring any matter to the Department of Justice, the party shall
1554 provide to the other party 30 days' written notice of the intent to take such action;
1555 *Provided, That* such notice shall not be required where a delay in commencing an action
1556 would prejudice the interests of the party that intends to file suit. During the 30-day
1557 notice period, the Contractor and the Contracting Officer shall meet and confer in an
1558 attempt to resolve the dispute. Except as specifically provided, nothing herein is intended
1559 to waive or abridge any right or remedy that the Contractor or the United States may have.

1560 OFFICIALS NOT TO BENEFIT

1561 34. No Member of or Delegate to the Congress, Resident Commissioner, or official of
1562 the Contractor shall benefit from this Contract other than as a water user or landowner in the
1563 same manner as other water users or landowners.

1564 CHANGES IN CONTRACTOR'S ORGANIZATION OR SERVICE AREA

1565 35. (a) While this Contract is in effect, no change may be made in the
1566 Contractor's organization or Service Area, by inclusion or exclusion of lands or by any other
1567 changes which may affect the respective rights, obligations, privileges, and duties of either the
1568 United States or the Contractor under this Contract, including, but not limited to, dissolution,
1569 consolidation, or merger, except upon the Contracting Officer's written consent.

1570 (b) Within 30 days of receipt of a request for such a change, the Contracting
1571 Officer will notify the Contractor of any additional information required by the Contracting
1572 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1573 schedule for timely completion of the process. Such process will analyze whether the proposed
1574 change, is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1575 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1576 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)

1577 have an impact on any Project Water rights applications, permits, or licenses. In addition,
1578 the Contracting Officer shall comply with the NEPA and the ESA. The Contractor will
1579 be responsible for all costs incurred by the Contracting Officer in this process, and such
1580 costs will be paid in accordance with Article 24 of this Contract.

1581 FEDERAL LAWS

1582 36. By entering into this Contract, the Contractor does not waive its rights to contest
1583 the validity or application in connection with the performance of the terms and
1584 conditions of this Contract of any Federal law or regulation; *Provided, That* the
1585 Contractor agrees to comply with the terms and conditions of this Contract unless and
1586 until relief from application of such Federal law or regulation to the implementing
1587 provision of the Contract is granted by a court of competent jurisdiction.

1588 NOTICES

1589 37. Any notice, demand, or request authorized or required by this Contract shall be
1590 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1591 delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno,
1592 California 93721, Bureau of Reclamation, and on behalf of the United States, when mailed,
1593 postage prepaid, or delivered to the Board of Directors of the Westlands Water District, P.O. Box
1594 6056, Fresno, California 93703-6056. The designation of the addressee or the address may be
1595 changed by notice given in the same manner as provided in this Article for other notices.

1596 EMERGENCY RESERVE FUND

1597 38. (a) Commencing on **March 1, 2020**, the Contractor shall accumulate and
1598 maintain a reserve fund or demonstrate to the satisfaction of the Contracting Officer that other
1599 funds are available for use as an emergency reserve fund. The Contractor shall establish and
1600 maintain that emergency reserve fund to meet costs incurred during periods of special stress

1601 caused by damaging droughts, storms, earthquakes, floods, or other emergencies threatening or
1602 causing interruption of water service.

1603 (b) The Contractor shall accumulate the reserve fund with annual deposits or
1604 investments of not less than \$500,000 to a Federally insured, interest- or dividend-bearing
1605 account or in securities guaranteed by the Federal Government: *Provided, That* money in the
1606 reserve fund, including accrued interest, shall be available within a reasonable time to meet
1607 expenses for such purposes as those identified in paragraph (d) herein. Such annual deposits and
1608 the accumulation of interest to the reserve fund shall continue until the basic amount of
1609 \$1,500,000 is accumulated. Following an emergency expenditure from the fund, the annual
1610 deposits shall continue from the year following the emergency expenditure until the previous
1611 balance is restored. After the initial amount is accumulated or after the previous balance is
1612 restored, the annual deposits may be discontinued, and the interest earnings shall continue to
1613 accumulate and be retained as part of the reserve fund.

1614 (c) Upon mutual written agreement between the Contractor and the
1615 Contracting Officer, the basic reserve fund or the accumulated reserve fund may be adjusted to
1616 account for risk and uncertainty stemming from the size and complexity of the project; the size
1617 of the annual operation and maintenance budget; additions to, deletions from, or changes in
1618 project works; and operation and maintenance costs not contemplated when this Contract was
1619 executed.

1620 (d) The Contractor may make expenditures from the reserve fund only for
1621 meeting routine or recurring operation and maintenance costs incurred during periods of special
1622 stress, as described in paragraph (a) herein; or for meeting unforeseen extraordinary operation
1623 and maintenance costs; or for meeting unusual or extraordinary repair or replacement costs; or
1624 for meeting betterment costs (in situations where recurrence of severe problems can be
1625 eliminated) during periods of special stress. Proposed expenditures from the fund shall be
1626 submitted to the Contracting Officer in writing for review and written approval prior to
1627 disbursement. Whenever the reserve fund is reduced below the current balance by expenditures

1628 therefrom, the Contractor shall restore that balance by the accumulation of annual deposits as
1629 specified in paragraph (b) herein.

1630 (e) During any period in which any of the project works are operated and
1631 maintained by the United States, the Contractor agrees the reserve fund shall be available for like
1632 use by the United States.

1633 (f) On or before August 1 of each year, the Contractor shall provide a current
1634 statement of the principal and accumulated interest of the reserve fund account to the Contracting
1635 Officer.

1636 ADMINISTRATION OF FEDERAL PROJECT LANDS

1637 39. (a) The lands and interests in lands acquired, withdrawn, or reserved and
1638 needed by the United States for the purposes of care, operation, and maintenance of San Luis
1639 Unit facilities may be used by the Contractor for such purposes. The Contractor shall ensure that
1640 no unauthorized encroachment occurs on Federal project lands and rights-of-way. The
1641 Contractor does not have the authority to issue any land-use agreement or grant that conveys an
1642 interest in Federal real property, nor to lease or dispose of any interest of the United States.

1643 (b) The United States retains responsibility for compliance with the National
1644 Historic Preservation Act of 1966 (NHPA), and the Native American Graves Protection and
1645 Repatriation Act of 1990 (NAGPRA). The Contractor will notify the Contracting Officer and,
1646 only when on tribal land, also notify the appropriate tribal official, immediately upon the
1647 discovery of any potential historic properties or Native American human remains, funerary
1648 objects, sacred objects, or objects of cultural patrimony.

1649 CONTAMINATION OR POLLUTION OF FEDERAL PROPERTY

1650 40. (a) The Contractor shall not allow contamination or pollution of Federal
1651 project lands, project waters, or project works of the United States or administered by the United
1652 States and for which the Contractor has the responsibility for care, operation, and maintenance
1653 by its employees or agents. The Contractor shall also take reasonable precautions to prevent
1654 such contamination or pollution by third parties.

1655 (b) The Contractor shall comply with all applicable Federal, State, and local
1656 laws and regulations and Bureau of Reclamation policies and instructions existing, or hereafter
1657 enacted or promulgated, concerning any hazardous material that will be used, produced,
1658 transported, stored, released, or disposed of on or in Federal project lands, project waters, or
1659 project works.

1660 (c) "Hazardous material" means (1) any substance falling within the
1661 definition of "hazardous substance," "pollutant or contaminant," or "hazardous waste" under the
1662 Comprehensive Environmental Response, Compensation and Liability Act

1663 (42 U.S.C. § 9601(14), (29), and (33)); (2) oil, as defined by the Clean Water Act
1664 (33 U.S.C. § 1321(a)) and the Oil Pollution Act (33 U.S.C. § 2701(23)); (3) thermal pollution,
1665 refuse, garbage, sewage effluent, industrial waste, mine or mill tailings, mineral salts, pesticides,
1666 and other solid waste, and (4) any other substance regulated as hazardous or toxic under Federal,
1667 State, local or Tribal law.

1668 (d) Upon discovery of any event which may or does result in contamination or
1669 pollution of Federal project lands, project water, or project works, the Contractor shall
1670 immediately undertake all measures necessary to protect public health and the environment,
1671 including measures necessary to contain or abate any such contamination or pollution, and shall
1672 report such discovery with full details of the actions taken to the Contracting Officer. Reporting
1673 shall be within a reasonable time period but shall not exceed 24 hours from the time of discovery
1674 if it is an emergency and the first working day following discovery in the event of a non-
1675 emergency.

1676 (e) If violation of the provisions of this Article occurs and the Contractor does
1677 not take immediate corrective action, as determined by the Contracting Officer, the Contractor
1678 may be subject to remedies imposed by the Contracting Officer, which may include termination
1679 of this Contract.

1680 (f) The Contractor shall be liable for any response action or corrective
1681 measure necessary to protect public health and the environment or to restore Federal project
1682 lands, project waters, or project works that are adversely affected as a result of such violation,
1683 and for all costs, penalties or other sanctions that are imposed for violation of any Federal, State,
1684 local, or Tribal laws and regulations concerning hazardous material. At the discretion of the
1685 Contracting Officer, the United States may also terminate this Contract, as a result of such
1686 violation.

1687 (g) The Contractor shall defend, indemnify, protect and save the United States
1688 harmless from and against any costs, expenses, claims, damages, demands, or other liability
1689 arising from or relating to Contractor's violation of this Article.

1690 (h) The Bureau of Reclamation agrees to provide information necessary for
1691 the Contractor, using reasonable diligence, to comply with the provisions of this Article.

1692

RECLAMATION REFORM ACT OF 1982

1693

41. (a) Upon a Contractor's compliance with and discharge of the Repayment

1694

Obligation pursuant to this Contract, subsections (a) and (b) of Section 213 of the Reclamation

1695

Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

1696

(b) The obligation of a Contractor to pay the Additional Capital Obligation

1697

shall not affect the Contractor's status as having repaid all of the construction costs assignable to

1698

the Contractor or the applicability of subsections (a) and (b) of section 213 of the Reclamation

1699

Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

1700

CERTIFICATION OF NONSEGREGATED FACILITIES

1701

42. The Contractor hereby certifies that it does not maintain or provide for its

1702

employees any segregated facilities at any of its establishments and that it does not permit its

1703

employees to perform their services at any location under its control where segregated facilities

1704

are maintained. It certifies further that it will not maintain or provide for its employees any

1705

segregated facilities at any of its establishments and that it will not permit its employees to

1706

perform their services at any location under its control where segregated facilities are

1707

maintained. The Contractor agrees that a breach of this certification is a violation of the Equal

1708

Employment Opportunity clause in this contract. As used in this certification, the term

1709

"segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,

1710

restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,

1711

parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing

1712

facilities provided for employees which are segregated by explicit directive or are in fact

1713

segregated on the basis of race, creed, color, or national origin, because of habit, local custom,

1714

disability, or otherwise. The Contractor further agrees that (except where it has obtained

1715

identical certifications from proposed subcontractors for specific time periods) it will obtain

1716

identical certifications from proposed subcontractors prior to the award of subcontracts

1717

exceeding \$10,000 which are not exempt from the provisions of the Equal Employment

1718

Opportunity clause; that it will retain such certifications in its files; and that it will forward the

1719

following notice to such proposed subcontractors (except where the proposed subcontractors

1720

have submitted identical certifications for specific time periods):

1721 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
 1722 CERTIFICATIONS OF NONSEGREGATED FACILITIES

1723 A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract
 1724 exceeding \$10,000 which is not exempt from the provisions of the Equal Employment
 1725 Opportunity clause. The certification may be submitted either for each subcontract or for all
 1726 subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for
 1727 making false statements in offers is prescribed in 18 U.S.C. § 1001.

1728 PEST MANAGEMENT

1729 43. (a) The Contractor is responsible for complying with applicable Federal,
 1730 State, and local laws, rules, and regulations related to pest management in performing its
 1731 responsibilities under this contract.

1732 (b) The Contractor is responsible for effectively avoiding the introduction and
 1733 spread of, and for otherwise controlling, undesirable plants and animals, as defined by the
 1734 Contracting Officer, on or in Federal project lands, Federal project waters, and Federal project
 1735 works for which and to the extent that the Contractor has operation and maintenance
 1736 responsibility. The Contractor is responsible for exercising the level of precaution necessary in
 1737 meeting this responsibility, including inspecting its vehicles, watercraft, and equipment for
 1738 reproductive and vegetative parts, foreign soil, mud, or other debris that may cause the spread of
 1739 weeds, invasive species and other pests, and removing such materials before moving its vehicles,
 1740 watercraft, and equipment onto any Federal land, into any Federal project facility waters, or out
 1741 of any area on Federal project land where work is performed.

1742 (c) Where decontamination of the Contractor's vehicles, watercraft, or
 1743 equipment is required prior to entering Federal project land or waters, the decontamination shall
 1744 be performed by the Contractor at the point of prior use, or at an approved offsite facility able to
 1745 process generated cleaning wastes, pursuant to applicable laws, rules, and regulations. Upon the
 1746 completion of work, the Contractor will perform any required decontamination within the work
 1747 area before moving the vehicles, watercraft, and equipment from Federal project lands and
 1748 waters.

1749 (d) Programs for the control of undesirable plants and animals on Federal
 1750 project lands, and in Federal project waters and Federal project works for which the Contractor
 1751 has operation and maintenance responsibility will incorporate Integrated Pest Management
 1752 (IPM) concepts and practices. IPM refers to a systematic and environmentally compatible
 1753 program to maintain pest populations within economically and environmentally tolerable levels.
 1754 In implementing an IPM program, the Contractor will adhere to applicable Federal and State
 1755 laws and regulations and Department of the Interior and Bureau of Reclamation policies,
 1756 directives, guidelines, and manuals, including but not limited to, the Department of the Interior
 1757 Manual, Part 517 *Integrated Pest Management Policy* and Part 609 *Weed Control Program*, the

1758 Plant Protection Act of June 20, 2000 (Pub. L. 106-224), and Executive Order 13112 of February
1759 3, 1999.

1760 MEDIUM FOR TRANSMITTING PAYMENT

1761 44. (a) All payments from the Contractor to the United States under this Contract
1762 shall be by the medium requested by the United States on or before the date payment is due. The
1763 required method of payment may include checks, wire transfers, or other types of payment
1764 specified by the United States.

1765 (b) Upon execution of the contract, the Contractor shall furnish the
1766 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose
1767 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising
1768 out of the Contractor's relationship with the United States.

1769 CONTRACT DRAFTING CONSIDERATIONS

1770 45. This amended Contract has been negotiated and reviewed by the parties hereto,
1771 each of whom is sophisticated in the matters to which this amended Contract pertains. The
1772 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by
1773 the parties, and no one party shall be considered to have drafted the stated Articles. Single-
1774 spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

1775 CONFIRMATION OF CONTRACT

1776 46. Promptly after the execution of this amended Contract, the Contractor will
1777 provide to the Contracting Officer a certified copy of a final decree of a court of competent
1778 jurisdiction in the State of California, confirming the proceedings on the part of the Contractor
1779 for the authorization of the execution of this amended Contract. This amended Contract shall not
1780 be binding on the United States until the Contractor secures a final decree.

1781

1782 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day
1783 and year first above written.

1784 UNITED STATES OF AMERICA

1785 By: _____
1786 Regional Director
1787 Mid-Pacific Region
1788 Bureau of Reclamation

1789 WESTLANDS WATER DISTRICT
1790 (SEAL)

1791 By: _____
1792 President of the Board of Directors

1793 Attest:

1794 By: _____
1795 Secretary of the Board of Directors

EXHIBIT A

Place Holder for Reclamation

EXHIBIT B

Place Holder for Reclamation

EXHIBIT C

Place Holder for Reclamation

EXHIBIT D

Place Holder for Reclamation