

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

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

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1           THIS CONTRACT, made this 22<sup>nd</sup> day of October, 2020, in  
2           pursuance generally of the Act of June 17, 1902, (32 Stat. 388), and acts amendatory thereof or  
3           supplementary thereto, including but not limited to, the Acts of August 26, 1937 (50 Stat. 844),  
4           as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,  
5           July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263),  
6           October 27, 1986 (100 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992  
7           (106 Stat. 4706), as amended, and the Water Infrastructure Improvements for the Nation Act  
8           (Public Law (Pub. L.) 114-322, 130 Stat. 1628), Section 4011 (a-d) and (f) ("WIIN Act"), all  
9           collectively hereinafter referred to as Federal Reclamation law, between the UNITED STATES  
10          OF AMERICA, hereinafter referred to as the United States, represented by the officer executing  
11          this Contract, hereinafter referred to as the Contracting Officer, and FRESNO SLOUGH  
12          WATER DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of  
13          California, duly organized, existing, and acting pursuant to the laws thereof;

14           WITNESSETH, That:

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EXPLANATORY RECITALS

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

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

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

[4<sup>th</sup>] WHEREAS, the United States and the Contractor entered into Contract No. 14-06-200-4019A, dated July 30, 1968, which established terms for the delivery of 866 acre feet of Schedule 2 water as a permanent adjustment and settlement of the Contractor's asserted claims of rights to water in Fresno Slough, tributary to the San Joaquin River in fulfillment of such rights; and

[5<sup>th</sup>] WHEREAS, Schedule 2 water is not the subject of this Contract and will continue to be delivered and administered under the terms and conditions of Contract No. 14-06-200-4019A; and

35 [6<sup>th</sup>] WHEREAS, Contract No. 14-06-200-4019A also established the terms for  
36 the delivery of 4,000 acre-feet of supplemental water, hereinafter referred to as Project Water, to  
37 the Contractor from Delta Division facilities from July 30, 1968 through December 23, 2003;  
38 and

39 [7<sup>th</sup>] WHEREAS, the United States and the Contractor have pursuant to  
40 Subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently  
41 entered into interim renewal contract(s) identified as Contract No(s). 14-06-200-4019A-IR1 and  
42 14-06-200-A-IR2, which provided for the delivery of Project Water to the Contractor from  
43 March 1, 2004, through February 28, 2006; and

44 [8<sup>th</sup>] WHEREAS, the United States and the Contractor entered into a long-term  
45 contract identified as Contract No. 14-06-200-4019A-LTR1, hereinafter referred to as the  
46 Existing Contract, which provided for the continued water service to the Contractor following  
47 expiration of Contract No. 14-06-200-4019A-IR2, and which was in effect the date the WIIN Act  
48 was enacted; and

49 [9<sup>th</sup>] WHEREAS, on December 16, 2016, the 114<sup>th</sup> Congress of the United  
50 States of America enacted the WIIN Act; and

51 [10<sup>th</sup>] WHEREAS, Section 4011(a)(1) provides that “upon request of the  
52 contractor, the Secretary of the Interior shall convert any water service contract in effect on the  
53 date of enactment of this subtitle and between the United States and a water users’ association  
54 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under  
55 mutually agreeable terms and conditions.”; and

56 [11<sup>th</sup>] WHEREAS, Section 4011(a)(1) further provides that “the manner of  
57 conversion under this paragraph shall be as follows: (A) Water service contracts that were  
58 entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under  
59 this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat.  
60 1195)”; and “(B) Water service contracts that were entered under subsection (c)(2) of section 9  
61 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be  
62 converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

63 [12<sup>th</sup>] WHEREAS, Section 4011(a)(4)(C) further provides all contracts entered  
64 into pursuant to Section 4011(a)(1), (2), and (3) shall “not modify other water service,  
65 repayment, exchange and transfer contractual rights between the water users’ association  
66 [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the  
67 water users’ association [Contractor] and their landowners as provided under State law.”; and

68 [13<sup>th</sup>] WHEREAS, Section 4011(d)(3) and (4) of the WIIN Act provides that  
69 “implementation of the provisions of this subtitle shall not alter... (3) the priority of a water  
70 service or repayment contractor to receive water; or (4) except as expressly provided in this  
71 section, any obligations under the Federal Reclamation law, including the continuation of  
72 Restoration Fund charges pursuant to section 3407(d) (Pub. L. 102-575), of the water service and  
73 repayment contractors making prepayments pursuant to this section.”; and

74 [14<sup>th</sup>] WHEREAS, upon the request of the Contractor, the WIIN Act directs the  
75 Secretary to convert irrigation water service contracts and municipal and industrial (M&I) water  
76 service contracts into repayment contracts, amend existing repayment contracts, and allow

77 contractors to prepay their construction cost obligations pursuant to applicable Federal  
78 Reclamation law; and

79 [15<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has  
80 fulfilled all of its obligations under the Existing Contract; and

81 [16<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the  
82 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for  
83 reasonable and beneficial use and/or has demonstrated future demand for water use such that the  
84 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the  
85 quantity of Project Water to be made available to it pursuant to this Contract; and

86 [17<sup>th</sup>] WHEREAS, water obtained from the Project has been relied upon by  
87 urban and agricultural areas within California for more than 50 years, and is considered by the  
88 Contractor as an essential portion of its water supply; and

89 [18<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the  
90 Contractor's, depend upon the continued availability of water, including water service from the  
91 Project; and

92 [19<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and  
93 partnerships to pursue measures to improve water supply, water quality, and reliability of the  
94 Project for all Project purposes; and

95 [20<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor  
96 include: to provide for reliable Project Water supplies; to control costs of those supplies; to  
97 achieve repayment of the Project as required by law; to guard reasonably against Project Water  
98 shortages; to achieve a reasonable balance among competing demands for use of Project Water;

99 and to comply with all applicable environmental statutes, all consistent with the legal obligations  
100 of the United States relative to the Project; and

101 [21<sup>st</sup>] WHEREAS, the parties intend by this Contract to maintain a cooperative  
102 relationship in order to achieve their mutual goals; and

103 [22<sup>nd</sup>] WHEREAS, the Contractor has utilized or may utilize transfers, contract  
104 assignments, rescheduling, and conveyance of Project Water and non-Project water under this  
105 Contract as tools to minimize the impacts of a Condition of Shortage and to maximize the  
106 beneficial use of water; and

107 [23<sup>rd</sup>] WHEREAS, the parties desire and intend that this Contract not provide a  
108 disincentive to the Contractor in continuing to carry out the beneficial activities set out in the  
109 Explanatory Recital immediately above; and

110 [25<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree that this  
111 Contract complies with Section 4011 of the WIIN Act; and

112 [26<sup>th</sup>] WHEREAS, the Contracting Officer and the Contractor agree to amend  
113 and convert the Existing Contract pursuant to Section 4011 of the WIIN Act and other Federal  
114 Reclamation law on the terms and conditions set forth below.

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

117 DEFINITIONS

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



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

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

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

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

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

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

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

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

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

149 (j) "Eligible Lands" shall mean all lands to which Irrigation Water may be  
150 delivered in accordance with Section 204 of the Reclamation Reform Act of 1982 (96 Stat.  
151 1263), as amended;

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

155 (l) "Existing Capital Obligation" shall mean the remaining amount of  
156 construction costs or other capitalized costs allocable to the Contractor as described in Section  
157 4011, subsections (a)(2)(A) and (a)(3)(A) of the WIIN Act, and as identified in the Central  
158 Valley Project Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively,  
159 in the Final 2020 Ratebooks, as adjusted to reflect payments not reflected in such schedule. The  
160 Contracting Officer has computed the Existing Capital Obligation and such amount is set forth in  
161 Exhibit "C", which is incorporated herein by reference;

162 (m) "Full Cost Rate" shall mean an annual rate, as determined by the  
163 Contracting Officer that shall amortize the expenditures for construction properly allocable to the

164 Project irrigation or M&I functions, as appropriate, of facilities in service including all O&M  
165 deficits funded, less payments, over such periods as may be required under Federal Reclamation  
166 law, or applicable contract provisions. Interest will accrue on both the construction expenditures  
167 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the  
168 date incurred in the case of costs arising subsequent to October 12 1982, and shall be calculated  
169 in accordance with subsections 202(3)(B) and (3)(C) of the Reclamation Reform Act of 1982.

170 The Full Cost Rate includes actual operation, maintenance, and replacement costs consistent with  
171 Section 426.2 of the Rules and Regulations for the Reclamation Reform Act of 1982;

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

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

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

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

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

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

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

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

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

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

200 (x) "Project Water" shall mean all water that is developed, diverted, stored, or  
201 delivered by the Secretary in accordance with the statutes authorizing the Project and in  
202 accordance with the terms and conditions of water rights acquired pursuant to California law;  
203 however, Schedule 2 Water shall not be considered Project Water for purposes of this Contract;

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

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

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

215 (bb) "Schedule 2 Water" shall mean that water as so defined under Contract  
216 No. 14-06-200-4019A with the United States, which will continue to be delivered and  
217 administered under said contract;

218 (cc) "Secretary" shall mean the Secretary of the Interior, a duly appointed  
219 successor, or an authorized representative acting pursuant to any authority of the Secretary and  
220 through any agency of the Department of the Interior;

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

224 (ee) "Water Delivered" or "Delivered Water" shall mean Project Water  
225 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting  
226 Officer;

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

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

233 (hh) "Year" shall mean the period from and including March 1 of each  
234 Calendar Year through the last day of February of the following Calendar Year.

235 TERM OF CONTRACT – RIGHT TO USE OF WATER

236 2. (a) This Contract shall be effective November 1, 2020, hereinafter known as  
237 the "Effective Date", and shall continue so long as the Contractor pays applicable Rates and  
238 Charges under this Contract, consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939  
239 (53 Stat. 1195) as applicable, and applicable law;

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

246 (2) Provided, further, That the Contracting Officer shall not seek to  
247 suspend making water available or declaring Water Made Available pursuant to this Contract for  
248 non-compliance by the Contractor with the terms of this Contract or Federal law, unless the

249 Contracting Officer has first provided at least thirty (30) calendar days written notice to the  
250 Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence  
251 curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully  
252 cured within the thirty (30) calendar days' notice period. If the Contracting Officer has  
253 suspended making water available pursuant to this paragraph, upon cure of such non-compliance  
254 satisfactory to the to the Contracting Officer, the Contracting Officer shall resume making water  
255 available and declaring Water Made Available pursuant to this Contract;

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

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

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

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

269 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

270 3. (a) During each Year, consistent with all applicable State water rights permits,  
271 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this  
272 Contract, the Contracting Officer shall make available for delivery to the Contractor 4,000 acre-  
273 feet of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in  
274 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of  
275 Articles 4 and 7 of this Contract. Schedule 2 Water shall continue to be delivered to the  
276 Contractor at no cost pursuant to Contract No. 14-06-200-4019A, dated July 30, 1968, and shall  
277 not be subject to the provisions of this Contract, and said Contract No. 14-06-200-4019A shall be  
278 in full force and effect insofar as it pertains to the furnishing of Schedule 2 Water.

279 (b) Because the capacity of the Project to deliver Project Water has been  
280 constrained in recent years and may be constrained in the future due to many factors including  
281 hydrologic conditions and implementation of Federal and State laws, the likelihood of the  
282 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this  
283 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the  
284 programmatic environmental impact statement prepared pursuant to Section 3404(c) of the  
285 CVPIA projected that the Contract Total set forth in this Contract will not be available to the  
286 Contractor in many years. During the most recent five years prior to execution of the Existing  
287 Contract, the Recent Historic Average Water Made Available to the Contractor was 2,632 acre-  
288 feet. Nothing in this subdivision (b) of this Article shall affect the rights and obligations of the  
289 parties under any provision of this Contract.



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

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

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

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

319 (e) The Contractor shall comply with requirements applicable to the  
320 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution  
321 of any water service contract between the Contracting Officer and the Contractor in effect  
322 immediately prior to the Effective Date undertaken pursuant to Section 7 of the Endangered  
323 Species Act of 1973 (ESA), as amended, that are within the Contractor's legal authority to  
324 implement. The Existing Contract, which evidences in excess of 36 years of diversions for  
325 irrigation and/or M&I purposes of the quantities of Project Water provided in subdivision (a) of  
326 Article 3 of this Contract, will be considered in developing an appropriate baseline for any  
327 required biological assessment(s) prepared pursuant to the ESA, and any other needed  
328 environmental review. Nothing herein shall be construed to prevent the Contractor from  
329 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any  
330 biological opinion or other environmental documentation referred to in this Article.

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

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

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

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

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

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

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

373 TIME FOR DELIVERY OF WATER

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

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

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

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

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

398 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

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

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

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

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

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

441 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

613 Any amount to be paid for past due payment of Charges and the Tiered Pricing shall be

614 computed pursuant to Article 19 of this Contract.

615 (f) The Contractor shall pay for any Water Delivered under subdivision (a),

616 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to

617 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting

618 policies; Provided, That the Rate for Water Delivered under subdivision (f) of Article 3 of this

619 Contract shall be no more than the otherwise applicable Rate for Irrigation Water or M&I Water

620 under subdivision (a) of this Article.

621 (g) Payments to be made by the Contractor to the United States under this

622 Contract may be paid from any revenues available to the Contractor.

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

624 the delivery of Project Water or the delivery of non-Project water through Project facilities shall

625 be allocated and applied in accordance with Federal Reclamation law and the associated rules or

626 regulations, and the then-current Project ratesetting policies for M&I Water or Irrigation Water.

627 (i) The Contracting Officer shall keep its accounts pertaining to the

628 administration of the financial terms and conditions of its long-term contracts, in accordance

629 with applicable Federal standards, so as to reflect the application of Project costs and revenues.

630 The Contracting Officer shall, each Year upon request of the Contractor, provide to the

631 Contractor a detailed accounting of all Project and Contractor expense allocations, the

632 disposition of all Project and Contractor revenues, and a summary of all water delivery

633 information. The Contracting Officer and the Contractor shall enter into good faith negotiations



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

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

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

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

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

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

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

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

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

687 (o) Omitted

688 NON-INTEREST BEARING O&M DEFICITS

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

692 SALES, TRANSFERS, OR EXCHANGES OF WATER

693 9. (a) The right to receive Project Water provided for in this Contract may be  
694 sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of  
695 California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,  
696 and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project  
697 Water under this Contract may take place without the prior written approval of the Contracting  
698 Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or  
699 exchanges shall be approved absent all appropriate environmental documentation, including, but

700 not limited to, documents prepared pursuant to the NEPA and ESA. Such environmental  
701 documentation should include, as appropriate, an analysis of groundwater impacts and economic  
702 and social effects, including environmental justice, of the proposed water transfers on both the  
703 transferor and transferee.

704 (b) In order to facilitate efficient water management by means of water  
705 transfers of the type historically carried out among Project Contractors located within the same  
706 geographical area and to allow the Contractor to participate in an accelerated water transfer  
707 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,  
708 all necessary environmental documentation, including, but not limited to, documents prepared  
709 pursuant to the NEPA and ESA, analyzing annual transfers within such geographical areas and  
710 the Contracting Officer shall determine whether such transfers comply with applicable law.  
711 Following the completion of the environmental documentation, such transfers addressed in such  
712 documentation shall be conducted with advance notice to the Contracting Officer, but shall not  
713 require prior written approval by the Contracting Officer. Such environmental documentation  
714 and the Contracting Officer's compliance determination shall be reviewed every five years and  
715 updated, as necessary, prior to the expiration of the then existing five (5)-year period. All  
716 subsequent environmental documentation shall include an alternative to evaluate not less than the  
717 quantity of Project Water historically transferred within the same geographical area.

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

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

729 APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

742 (b) All advances for miscellaneous costs incurred for work requested by the  
743 Contractor pursuant to Article 24 of this Contract shall be adjusted to reflect the actual costs

744 when the work has been completed. If the advances exceed the actual costs incurred, the  
745 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's  
746 advances, the Contractor will be billed for the additional costs pursuant to Article 24 of this  
747 Contract.

748 TEMPORARY REDUCTIONS – RETURN FLOWS

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

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

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

766 derived from Water Delivered to the Contractor hereunder which escapes or is discharged  
767 beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for  
768 the United States any right to seepage or return flow being put to reasonable and beneficial use  
769 pursuant to this Contract within the Contractor's Service Area by the Contractor or those  
770 claiming by, through, or under the Contractor.

771 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

777 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting  
778 or other similar operational errors affecting the Project; drought and other physical or natural  
779 causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer  
780 to meet current and future legal obligations, then, except as provided in subdivision (a) of Article  
781 17 of this Contract, no liability shall accrue against the United States or any of its officers,  
782 agents, or employees for any damage, direct or indirect, arising therefrom.

783 (c) In any Year in which there may occur a Condition of Shortage for any of  
784 the reasons specified in subdivision (b) of this Article, and subject to subdivision (d) of this  
785 Article, the Contracting Officer will first allocate the available Project Water consistent with the  
786 Project M&I Water Shortage Policy as finally adopted after environmental review for  
787 determining the amount of Project Water Available for delivery to the Project Contractors.  
788 Subject to the foregoing allocation, in any year in which there may occur a Condition of  
789 Shortage, the Contracting Officer shall then apportion Project Water among the Contractor and  
790 others entitled to Project Water from Delta Division Facilities under long-term water service or  
791 repayment contracts (or renewals thereof or binding commitments therefore) in force on

792 February 28, 2005, as follows:

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

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

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

806 (4) The available supply shall be multiplied by the Contractor's  
807 proportionate share and the result shall be the quantity of Project Water made available by the  
808 United States to the Contractor for the relevant Year in accordance with the schedule developed  
809 by the Contracting Officer under subdivision (c)(1) of this Article 12, but in no event shall such  
810 amount exceed the Contract Total. In the event the Contracting Officer subsequently determines  
811 that the Contracting Officer can increase or needs to decrease the available supply for delivery  
812 from Delta Division Facilities to long-term water service and repayment contractors during the  
813 relevant Year, such additions or reductions to the available supply shall be apportioned



814 consistent with subparagraphs (1) through (4), inclusive.

815 (d) By entering into this Contract, the Contractor does not waive any legal  
816 rights or remedies it may have to file or participate in any administrative or judicial proceeding  
817 contesting: (i) the sufficiency of the Project M&I Water Shortage Policy; (ii) the substance of  
818 such a policy; (iii) the applicability of such a policy; or (iv) the manner in which such policy is  
819 implemented in order to allocate Project Water between M&I and irrigation purposes; Provided,  
820 *That* the Contractor has commenced any such judicial challenge or any administrative procedures  
821 necessary to institute any judicial challenge within six months of the policy becoming final. By  
822 agreeing to the foregoing, the Contracting Officer does not waive any legal defenses or remedies  
823 that it may have to assert in such a proceeding. Nothing contained herein shall be interpreted to  
824 validate or invalidate the Project M&I Water Shortage Policy.

825 UNAVOIDABLE GROUNDWATER PERCOLATION

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

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

832 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

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

838 PROTECTION OF WATER AND AIR QUALITY

839 15. (a) Omitted

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

845 None of the foregoing affects or modifies the obligations of the United States under Contract No.  
846 14-06-200-4019A, dated July 30, 1968, with respect to Schedule 2 Water, including but not  
847 limited to, Article 10 of said contract.

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

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

857 (e) Omitted

858 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN FROM THE UNITED  
859 STATES

860 16. (a) Water or water rights now owned or hereafter acquired by the Contractor  
861 other than from the United States and Irrigation Water furnished pursuant to the terms of this  
862 Contract may be simultaneously transported through the same distribution facilities of the  
863 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water  
864 and non-Project water were constructed without funds made available pursuant to Federal  
865 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the

866 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive  
867 Irrigation Water must be established through the certification requirements as specified in the  
868 Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of  
869 Eligible Lands within the Contractor's Service Area can be established and the quantity of  
870 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such  
871 Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-  
872 Project water are (were) constructed with funds made available pursuant to Federal Reclamation  
873 law, the non-Project water will be subject to the acreage limitation provisions of Federal  
874 Reclamation law, unless the Contractor pays to the United States the incremental fee described in  
875 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will calculate  
876 annually the cost to the Federal Government, including interest, of storing or delivering non-  
877 Project water, which for purposes of this Contract shall be determined as follows: The quotient  
878 shall be the unpaid distribution system costs divided by the total irrigable acreage within the  
879 Contractor's Service Area. The incremental fee per acre is the mathematical result of such  
880 quotient times the interest rate determined using Section 202 (3) of the Act of October 12, 1982  
881 (96 Stat. 1263). Such incremental fee will be charged to each acre of excess or full-cost land  
882 within the Contractor's Service Area that receives non-Project water through Federally financed  
883 or constructed facilities. The incremental fee calculation methodology will continue during the  
884 term of this Contract absent the promulgation of a contrary Bureau of Reclamation-wide rule,  
885 regulation, or policy adopted after the Contractor has been afforded the opportunity to review  
886 and comment on the proposed rule, regulation, or policy. If such rule, regulation, or policy is  
887 adopted, it shall supersede this provision.

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

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

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

905 (3) Neither the United States nor the Operating Non-Federal  
906 Entity(ies) shall be responsible for control, care, or distribution of the non-Project water before it  
907 is introduced into or after it is delivered from the Project facilities. The Contractor hereby  
908 releases and agrees to defend and indemnify the United States and the Operating Non-Federal  
909 Entity(ies), and their respective officers, agents, and employees, from any claim for damage to

910 persons or property, direct or indirect, resulting from the act(s) of the Contractor, its officers,  
911 employees, agents, or assigns, in (i) extracting or diverting non-Project water from any source, or  
912 (ii) diverting such non-Project water into Project facilities.

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

916 (5) After Project purposes are met, as determined by the Contracting  
917 Officer, the United States and Project Contractors entitled to Project Water from Delta Division  
918 Facilities shall share priority to utilize the remaining capacity of the facilities declared to be  
919 available by the Contracting Officer for conveyance and transportation of non-Project water prior  
920 to any such remaining capacity being made available to non-Project contractors. Other Project  
921 Contractors shall have a second priority to any remaining capacity of facilities declared to be  
922 available by the Contracting Officer for conveyance and transportation of non-Project water prior  
923 to any such remaining capacity being made available to non-Project contractors.

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

926 OPINIONS AND DETERMINATIONS

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

932 or unreasonable opinion or determination. Each opinion or determination by either party shall be  
933 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall  
934 affect or alter the standard of judicial review applicable under Federal law to any opinion or  
935 determination implementing a specific provision of Federal law embodied in statute or  
936 regulation.

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

942 COORDINATION AND COOPERATION

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

952 (b) Within 120 days following the Effective Date, the Contractor, other  
953 affected Project Contractors, and the Contracting Officer shall arrange to meet with interested

954 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be  
955 amended as necessary separate and apart from this Contract. The goal of this process shall be to  
956 provide, to the extent practicable, the means of mutual communication and interaction regarding  
957 significant decisions concerning Project O&M on a real-time basis.

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

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

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

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

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

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

975 (d) Without limiting the contractual obligations of the Contracting Officer

976 under the other Articles of this Contract, nothing in this Article shall be construed to limit or  
977 constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the  
978 Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to  
979 protect health, safety, or the physical integrity of structures or facilities.

980 CHARGES FOR DELINQUENT PAYMENTS

981 19. (a) The Contractor shall be subject to interest, administrative, and penalty  
982 charges on delinquent payments. If a payment is not received by the due date, the Contractor  
983 shall pay an interest charge on the delinquent payment for each day the payment is delinquent  
984 beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in  
985 addition to the interest charge, an administrative charge to cover additional costs of billing and  
986 processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor  
987 shall pay, in addition to the interest and administrative charges, a penalty charge for each day the  
988 payment is delinquent beyond the due date, based on the remaining balance of the payment due  
989 at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt  
990 collection services associated with a delinquent payment.

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

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

998 EQUAL EMPLOYMENT OPPORTUNITY

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

1000 (a) The Contractor will not discriminate against any employee or applicant for  
1001 employment because of race, color, religion, sex, sexual orientation, gender identity, or national  
1002 origin. The Contractor will take affirmative action to ensure that applicants are employed, and  
1003 that employees are treated during employment, without regard to their race, color, religion, sex,  
1004 sexual orientation, gender identity, or national origin. Such action shall include, but not be  
1005 limited to, the following: employment, upgrading, demotion, or transfer; recruitment or  
1006 recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and  
1007 selection for training, including apprenticeship. The Contractor agrees to post in conspicuous  
1008 places, available to employees and applicants for employment, notices to be provided by the  
1009 Contracting Officer setting forth the provisions of this nondiscrimination clause.



1010 (b) The Contractor will, in all solicitations or advertisements for employees  
1011 placed by or on behalf of the Contractor, state that all qualified applicants will receive  
1012 consideration for employment without regard to race, color, religion, sex, sexual orientation,  
1013 gender identity, or national origin.

1014 (c) The Contractor will not discharge or in any other manner discriminate  
1015 against any employee or applicant for employment because such employee or applicant has  
1016 inquired about, discussed, or disclosed the compensation of the employee or applicant or another  
1017 employee or applicant. This provision shall not apply to instances in which an employee who  
1018 has access to the compensation information of other employees or applicants as part of such  
1019 employee's essential job functions discloses the compensation of such other employees or  
1020 applicants to individuals who do not otherwise have access to such information, unless such  
1021 disclosure is in response to a formal complaint or charge, in furtherance of an investigation,  
1022 proceeding, hearing, or action, including an investigation conducted by the employer, or is  
1023 consistent with the Contractor's legal duty to furnish information.

1024 (d) The Contractor will send to each labor union or representative of workers  
1025 with which it has a collective bargaining agreement or other contract or understanding, a notice,  
1026 to be provided by the Contracting Officer, advising the labor union or workers' representative of  
1027 the Contractor's commitments under Section 202 of Executive Order No. 11246 of September  
1028 24, 1965, and shall post copies of the notice in conspicuous places available to employees and  
1029 applicants for employment.

1030 (e) The Contractor will comply with all provisions of Executive Order No.  
1031 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of  
1032 Labor.

1033 (f) The Contractor will furnish all information and reports required by  
1034 Executive Order No. 11246 of Sept. 24, 1965, and by the rules, regulations, and orders of the  
1035 Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts  
1036 by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain  
1037 compliance with such rules, regulations, and orders.

1038 (g) In the event of the Contractor's noncompliance with the nondiscrimination  
1039 clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be  
1040 canceled, terminated, or suspended in whole or in part and the Contractor may be declared  
1041 ineligible for further Government contracts in accordance with procedures authorized in  
1042 Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and  
1043 remedies invoked as provided in Executive Order No. 11246 of Sept. 24, 1965, or by rule,  
1044 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1045 (h) The Contractor will include the provisions of paragraphs (a) through (g) in  
1046 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
1047 Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of Sept. 24,

1048 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor  
1049 will take such action with respect to any subcontract or purchase order as may be directed by the  
1050 Secretary of Labor as a means of enforcing such provisions, including sanctions for  
1051 noncompliance: *Provided, however, That* in the event the Contractor becomes involved in, or is  
1052 threatened with, litigation with a subcontractor or vendor as a result of such direction, the  
1053 Contractor may request the United States to enter into such litigation to protect the interests of  
1054 the United States.

1055 GENERAL OBLIGATION – BENEFITS CONDITIONED UPON PAYMENT

1056 21. (a) The obligation of the Contractor to pay the United States as provided in  
1057 this Contract is a general obligation of the Contractor notwithstanding the manner in which the  
1058 obligation may be distributed among the Contractor's water users and notwithstanding the default  
1059 of individual water users in their obligation to the Contractor.

1060 (b) The payment of charges becoming due pursuant to this Contract is a  
1061 condition precedent to receiving benefits under this Contract. The United States shall not make  
1062 water available to the Contractor through Project facilities during any period in which the  
1063 Contractor is in arrears in the advance payment of water rates due the United States. The  
1064 Contractor shall not deliver water under the terms and conditions of this Contract for lands or  
1065 parties that are in arrears in the advance payment of water rates as levied or established by the  
1066 Contractor.

1067 (c) With respect to subdivision (b) of this Article, the Contractor shall have no  
1068 obligation to require advance payment for water rates which it levies.

1069 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1070 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
1071 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
1072 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title  
1073 III; 42 U.S.C. 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L. 101-  
1074 336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the  
1075 applicable implementing regulations and any guidelines imposed by the U.S. Department of the  
1076 Interior and/or Bureau of Reclamation.

1077 (b) These statutes prohibit any person in the United States from being  
1078 excluded from participation in, being denied the benefits of, or being otherwise subjected to  
1079 discrimination under any program or activity receiving financial assistance from the Bureau of  
1080 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this  
1081 Contract, the Contractor agrees to immediately take any measures necessary to implement this  
1082 obligation, including permitting officials of the United States to inspect premises, programs, and  
1083 documents.

1084 (c) The Contractor makes this Contract in consideration of and for the  
1085 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other  
1086 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of  
1087 Reclamation, including installment payments after such date on account of arrangements for  
1088 Federal financial assistance which were approved before such date. The Contractor recognizes  
1089 and agrees that such Federal assistance will be extended in reliance on the representations and  
1090 agreements made in this Article and that the United States reserves the right to seek judicial  
1091 enforcement thereof.

1092 (d) Complaints of discrimination against the Contractor shall be investigated  
1093 by the Contracting Officer's Office of Civil Rights.

1094 PRIVACY ACT COMPLIANCE

1095 23. (a) The Contractor shall comply with the Privacy Act of 1974 (Privacy Act)  
1096 (5 U.S.C. § 552a) and the Department of the Interior rules and regulations under the Privacy Act  
1097 (43 C.F.R. § 2.45, et seq.) in maintaining Landholder certification and reporting records required  
1098 to be submitted to the Contractor for compliance with Sections 206, 224(c), and 228 of the  
1099 Reclamation Reform Act of 1982 (43 U.S.C. §§ 390ff, 390ww, and 390zz), and pursuant to 43  
1100 C.F.R. § 426.18.

1101 (b) With respect to the application and administration of the criminal penalty  
1102 provisions of the Privacy Act (5 U.S.C. § 552a(i)), the Contractor and the Contractor's  
1103 employees who are responsible for maintaining the certification and reporting records referenced  
1104 in paragraph (a) above are considered to be employees of the Department of the Interior. See 5  
1105 U.S.C. § 552a(m).

1106 (c) The Contracting Officer or a designated representative shall provide the  
1107 Contractor with current copies of the Department of the Interior Privacy Act regulations and the  
1108 Bureau of Reclamation Federal Register Privacy Act System of Records Notice (Interior/WBR-  
1109 31, Acreage Limitation) which govern the maintenance, safeguarding, and disclosure of  
1110 information contained in the Landholders' certification and reporting records.

1111 (d) The Contracting Officer shall designate a full-time employee of the  
1112 Bureau of Reclamation to be the System Manager responsible for making decisions on denials  
1113 pursuant to 43 C.F.R. §§ 2.61 and 2.64 and amendment requests pursuant to 43 C.F.R. § 2.72.  
1114 The Contractor is authorized to grant requests by individuals for access to their own records.

1115 (e) The Contractor shall forward promptly to the System Manager each  
1116 proposed denial of access under 43 C.F.R. § 2.64 and each request for amendment of records  
1117 filed under 43 C.F.R. § 2.71; notify the requester accordingly of such referral; and provide the  
1118 System Manager with information and records necessary to prepare an appropriate response to  
1119 the requester. These requirements do not apply to individuals seeking access to their own

1120 certification and reporting forms filed with the Contractor pursuant to 43 C.F.R. § 426.18 unless  
1121 the requester elects to cite the Privacy Act as an authority for the request.

1122 (f) Upon complete payment of the Repayment Obligation by the Contractor,  
1123 this Article 23 will no longer be applicable.

1124 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1125 24. In addition to all other payments to be made by the Contractor pursuant to this  
1126 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and  
1127 detailed statement submitted by the Contracting Officer to the Contractor for such specific items  
1128 of direct cost incurred by the United States for work requested by the Contractor associated with  
1129 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies  
1130 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed  
1131 to in writing in advance by the Contractor. This Article shall not apply to costs for routine  
1132 contract administration.

1133 WATER CONSERVATION

1134 25. (a) Prior to the delivery of water provided from or conveyed through  
1135 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor  
1136 shall develop a water conservation plan, as required by subsection 210(b) of the Reclamation  
1137 Reform Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).  
1138 Additionally, an effective water conservation and efficiency program shall be based on the  
1139 Contractor's water conservation plan that has been determined by the Contracting Officer to meet  
1140 the conservation and efficiency criteria for evaluating water conservation plans established under  
1141 Federal law. The water conservation and efficiency program shall contain definite water  
1142 conservation objectives, appropriate economically feasible water conservation measures, and  
1143 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this

1144 Contract shall be contingent upon the Contractor's continued implementation of such water  
1145 conservation program. In the event the Contractor's water conservation plan or any revised water  
1146 conservation plan completed pursuant to subdivision (d) of this Article 25 have not yet been  
1147 determined by the Contracting Officer to meet such criteria, due to circumstances which the  
1148 Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be  
1149 made under this Contract so long as the Contractor diligently works with the Contracting Officer  
1150 to obtain such determination at the earliest practicable date, and thereafter the Contractor  
1151 immediately begins implementing its water conservation and efficiency program in accordance  
1152 with the time schedules therein.

1153           (b)     Should the amount of M&I Water delivered pursuant to subdivision (a) of  
1154 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the  
1155 Contractor shall implement the Best Management Practices identified by the time frames issued  
1156 by the Mid-Pacific Region's then-existing conservation and efficiency criteria for such M&I  
1157 Water unless any such practice is determined by the Contracting Officer to be inappropriate for  
1158 the Contractor.

1159           (c)     The Contractor shall submit to the Contracting Officer a report on the  
1160 status of its implementation of the water conservation plan on the reporting dates specified in the  
1161 then-existing conservation and efficiency criteria established under Federal law.

1162           (d)     At five (5)-year intervals, the Contractor shall revise its water  
1163 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating  
1164 water conservation plans established under Federal law and submit such revised water  
1165 management plan to the Contracting Officer for review and evaluation. The Contracting Officer

1166 will then determine if the water conservation plan meets the Bureau of Reclamation's then-  
1167 existing conservation and efficiency criteria for evaluating water conservation plans established  
1168 under Federal law.

1169 (e) If the Contractor is engaged in direct groundwater recharge, such activity  
1170 shall be described in the Contractor's water conservation plan.

1171 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1172 26. Except as specifically provided in Article 16 of this Contract, the provisions of  
1173 this Contract shall not be applicable to or affect non-Project water or water rights now owned or  
1174 hereafter acquired by the Contractor or any user of such water within the Contractor's Service  
1175 Area. Any such water shall not be considered Project Water under this Contract. In addition,  
1176 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or  
1177 any water user within the Contractor's Service Area acquires or has available under any other  
1178 contract pursuant to Federal Reclamation law.

1179 OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

1180 27. (a) The O&M of a portion of the Project facilities which serve the Contractor,  
1181 and responsibility for funding a portion of the costs of such O&M, have been transferred to the  
1182 San Luis & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate  
1183 agreement (8-07-20-X0354-X) between the United States and Operating Non-Federal Entity San  
1184 Luis & Delta-Mendota Water Authority. That separate agreement shall not interfere with or  
1185 affect the rights or obligations of the Contractor or the United States hereunder.

1186 (b) The Contracting Officer has previously notified the Contractor in writing  
1187 that the O&M of a portion of the Project facilities which serve the Contractor has been

1188 transferred to the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, and  
1189 therefore, the Contractor shall pay directly to the Operating Non-Federal Entity San Luis &  
1190 Delta-Mendota Water Authority, or to any successor approved by the Contracting Officer under  
1191 the terms and conditions of the separate agreement between the United States and the Operating  
1192 Non-Federal Entity San Luis & Delta-Mendota Water Authority described in subdivision (a) of  
1193 this Article, all rates, charges, or assessments of any kind, including any assessment for reserve  
1194 funds, which the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or  
1195 such successor determines, sets, or establishes for the O&M of the portion of the Project  
1196 facilities operated and maintained by the Operating Non-Federal Entity San Luis & Delta-  
1197 Mendota Water Authority or such successor. Such direct payments to Operating Non-Federal  
1198 Entity San Luis & Delta-Mendota Water Authority or such successor shall not relieve the  
1199 Contractor of its obligation to pay directly to the United States the Contractor's share of the  
1200 Project Rates, Charges, and Tiered Pricing Component except to the extent the Operating Non-  
1201 Federal Entity San Luis & Delta-Mendota Water Authority collects payments on behalf of the  
1202 United States in accordance with the separate agreement identified in subdivision (a) of this  
1203 Article.

1204 (c) For so long as the O&M of any portion of the Project facilities serving the  
1205 Contractor is performed by Operating Non-Federal Entity San Luis & Delta-Mendota Water  
1206 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the  
1207 Rates for Water Delivered under this Contract representing the cost associated with the activity  
1208 being performed by Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority  
1209 or its successor.

1210 (d) In the event the O&M of the Project facilities operated and maintained by  
1211 the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by  
1212 the United States during the term of this Contract, the Contracting Officer shall so notify the  
1213 Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall include  
1214 the portion of the Rates to be paid by the Contractor for Project Water under this Contract  
1215 representing the O&M costs of the portion of such Project facilities which have been re-assumed.  
1216 The Contractor shall, thereafter, in the absence of written notification from the Contracting  
1217 Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component specified in the  
1218 revised Exhibit "B" directly to the United States in compliance with Article 7 of this Contract.

1219 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1220 28. The expenditure or advance of any money or the performance of any obligation of  
1221 the United States under this Contract shall be contingent upon appropriation or allotment of  
1222 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any  
1223 obligations under this Contract. No liability shall accrue to the United States in case funds are  
1224 not appropriated or allotted.

1225 BOOKS, RECORDS, AND REPORTS

1226 29. (a) The Contractor shall establish and maintain accounts and other books and  
1227 records pertaining to administration of the terms and conditions of this Contract, including the  
1228 Contractor's financial transactions; water supply data; project operations, maintenance, and  
1229 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop  
1230 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting  
1231 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on  
1232 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws  
1233 and regulations, each party to this Contract shall have the right during office hours to examine  
1234 and make copies of the other party's books and records relating to matters covered by this  
1235 Contract.

1236 (b) Notwithstanding the provisions of subdivision (a) of this Article, no  
1237 books, records, or other information shall be requested from the Contractor by the Contracting  
1238 Officer unless such books, records, or information are reasonably related to the administration or



1239 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
1240 time within which to provide the requested books, records, or information.

1241 (c) At such time as the Contractor provides information to the Contracting  
1242 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided  
1243 to the Operating Non-Federal Entity(ies).

1244 ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED

1245 30. (a) The provisions of this Contract shall apply to and bind the successors and  
1246 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1247 therein by either party shall be valid until approved in writing by the other party.

1248 (b) The assignment of any right or interest in this Contract by either party  
1249 shall not interfere with the rights or obligations of the other party to this Contract absent the  
1250 written concurrence of said other party.

1251 (c) The Contracting Officer shall not unreasonably condition or withhold  
1252 approval of any proposed assignment.

1253 SEVERABILITY

1254 31. In the event that a person or entity who is neither (i) a party to a Project contract,  
1255 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)  
1256 an association or other form of organization whose primary function is to represent parties to  
1257 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1258 enforceability of a provision included in this Contract and said person, entity, association, or  
1259 organization obtains a final court decision holding that such provision is legally invalid or  
1260 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),  
1261 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such

1262 final court decision identify by mutual agreement the provisions in this Contract which must be  
1263 revised and (ii) within three months thereafter promptly agree on the appropriate revision(s).  
1264 The time periods specified above may be extended by mutual agreement of the parties. Pending  
1265 the completion of the actions designated above, to the extent it can do so without violating any  
1266 applicable provisions of law, the United States shall continue to make the quantities of Project  
1267 Water specified in this Contract available to the Contractor pursuant to the provisions of this  
1268 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1269 RESOLUTION OF DISPUTES

1270 32. Should any dispute arise concerning any provisions of this Contract, or the  
1271 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to  
1272 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting  
1273 Officer referring any matter to the Department of Justice, the party shall provide to the other  
1274 party 30 days' written notice of the intent to take such action; *Provided, That* such notice shall  
1275 not be required where a delay in commencing an action would prejudice the interests of the party  
1276 that intends to file suit. During the 30-day notice period, the Contractor and the Contracting  
1277 Officer shall meet and confer in an attempt to resolve the dispute. Except as specifically  
1278 provided, nothing herein is intended to waive or abridge any right or remedy that the Contractor  
1279 or the United States may have.

1280 OFFICIALS NOT TO BENEFIT

1281 33. No Member of or Delegate to the Congress, Resident Commissioner, or official of  
1282 the Contractor shall benefit from this Contract other than as a water user or landowner in the  
1283 same manner as other water users or landowners.



1308 RECLAMATION REFORM ACT OF 1982

1309 36. (a) Upon a Contractor's compliance with and discharge of the Repayment  
1310 Obligation pursuant to this Contract, subsections (a) and (b) of Section 213 of the Reclamation  
1311 Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

1312 (b) The obligation of a Contractor to pay the Additional Capital Obligation  
1313 shall not affect the Contractor's status as having repaid all of the construction costs assignable to  
1314 the Contractor or the applicability of subsections (a) and (b) of Section 213 of the Reclamation  
1315 Reform Act of 1982 (96 Stat. 1269) once the Repayment Obligation is paid.

1316 CERTIFICATION OF NONSEGREGATED FACILITIES

1317 37. The Contractor hereby certifies that it does not maintain or provide for its  
1318 employees any segregated facilities at any of its establishments and that it does not permit its  
1319 employees to perform their services at any location under its control where segregated facilities  
1320 are maintained. It certifies further that it will not maintain or provide for its employees any  
1321 segregated facilities at any of its establishments and that it will not permit its employees to  
1322 perform their services at any location under its control where segregated facilities are  
1323 maintained. The Contractor agrees that a breach of this certification is a violation of the Equal  
1324 Employment Opportunity clause in this Contract. As used in this certification, the term  
1325 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,  
1326 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,  
1327 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing  
1328 facilities provided for employees which are segregated by explicit directive or are in fact  
1329 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,  
1330 disability, or otherwise. The Contractor further agrees that (except where it has obtained  
1331 identical certifications from proposed subcontractors for specific time periods) it will obtain  
1332 identical certifications from proposed subcontractors prior to the award of subcontracts  
1333 exceeding \$10,000 which are not exempt from the provisions of the Equal Employment  
1334 Opportunity clause; that it will retain such certifications in its files; and that it will forward the  
1335 following notice to such proposed subcontractors (except where the proposed subcontractors  
1336 have submitted identical certifications for specific time periods):

1337 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR  
1338 CERTIFICATIONS OF NONSEGREGATED FACILITIES

1339 A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract  
1340 exceeding \$10,000 which is not exempt from the provisions of the Equal Employment

1341 Opportunity clause. The certification may be submitted either for each subcontract or for all  
1342 subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for  
1343 making false statements in offers is prescribed in 18 U.S.C. § 1001.

1344 NOTICES

1345 38. Any notice, demand, or request authorized or required by this Contract shall be  
1346 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
1347 delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno,  
1348 California 93721, Bureau of Reclamation, and on behalf of the United States, when mailed,  
1349 postage prepaid, or delivered to the Board of Directors of the Fresno Slough Water District, P.O.  
1350 Box 689, Tranquillity, California 93668. The designation of the addressee or the address may be  
1351 changed by notice given in the same manner as provided in this Article for other notices.

1352 MEDIUM FOR TRANSMITTING PAYMENT

1353 39. (a) All payments from the Contractor to the United States under this Contract  
1354 shall be by the medium requested by the United States on or before the date payment is due. The  
1355 required method of payment may include checks, wire transfers, or other types of payment  
1356 specified by the United States.

1357 (b) Upon execution of this Contract, the Contractor shall furnish the  
1358 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose  
1359 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising  
1360 out of the Contractor's relationship with the United States.

1361 CONTRACT DRAFTING CONSIDERATIONS

1362 40. This amended Contract has been negotiated and reviewed by the parties hereto,  
1363 each of whom is sophisticated in the matters to which this amended Contract pertains. The  
1364 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by  
1365 the parties, and no one party shall be considered to have drafted the stated Articles. Single-  
1366 spaced Articles are standard Articles pursuant to Bureau of Reclamation policy.

1367 CONFIRMATION OF CONTRACT


1368 41. Promptly after the execution of this amended Contract, the Contractor will  
1369 provide to the Contracting Officer a certified copy of a final decree of a court of competent  
1370 jurisdiction in the State of California, confirming the proceedings on the part of the Contractor  
1371 for the authorization of the execution of this amended Contract. This amended Contract shall not  
1372 be binding on the United States until the Contractor secures a final decree.

1373


150

1374 IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the  
1375 day and year first above written.


1376 UNITED STATES OF AMERICA

1377 By:   
1378 Regional Director  
1379 Interior Region 10: California-Great Basin  
1380 Bureau of Reclamation

1381 FRESNO SLOUGH WATER DISTRICT  
1382 (SEAL)

1383 By:   
1384 President of the Board of Directors

1385 Attest:

1386 By:   
1387 Secretary of the Board of Directors

1 SB

1374 IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the  
1375 day and year first above written.

1376 UNITED STATES OF AMERICA

APPROVED AS TO LEGAL FORM AND SUFFICIENCY - REVIEWED BY:

Digitally signed by  
BRIAN HUGHES  
Date: 2020.10.16  
18:19:17 -07'00'

OFFICE OF THE REGIONAL SOLICITOR  
DEPARTMENT OF THE INTERIOR  
TIME STAMP: 1:37 pm, May 11 2020

1377  
1378  
1379  
1380

By: \_\_\_\_\_  
Regional Director  
Interior Region 10: California-Great Basin  
Bureau of Reclamation

1381  
1382 (SEAL)

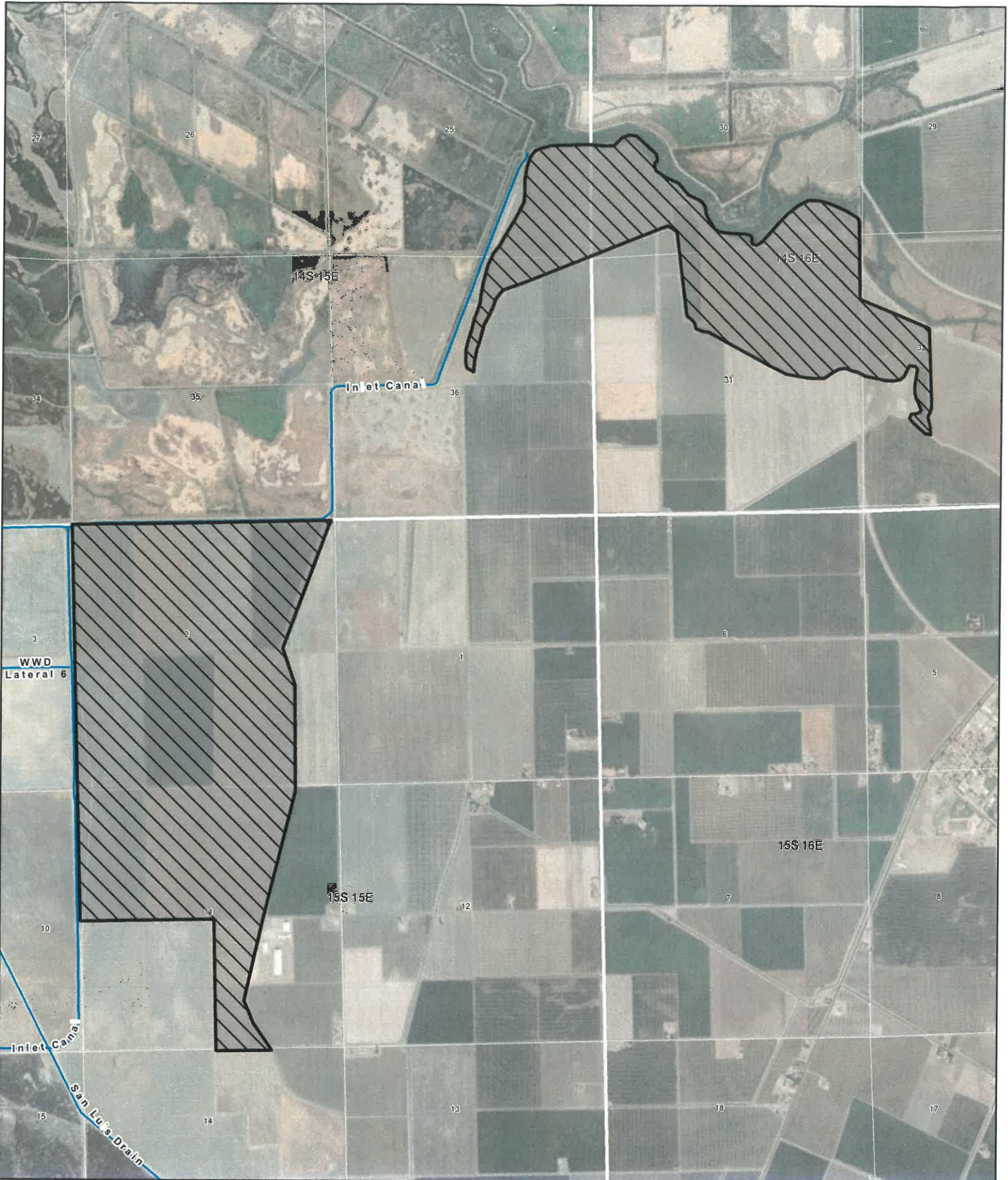
FRESNO SLOUGH WATER DISTRICT



1383  
1384

By: \_\_\_\_\_  
President of the Board of Directors

1385 Attest:

1386 By: \_\_\_\_\_  
1387 Secretary of the Board of Directors



-  District Boundary
-  Contractor's Service Area

# Fresno Slough Water District

Contract No. 14-06-200-4019A-LTR1-P  
Exhibit A



— BUREAU OF —  
RECLAMATION





**EXHIBIT B  
 FRESNO SLOUGH WATER DISTRICT  
 2020 Rates and Charges  
 (Per Acre-Foot)**

	<b>Irrigation Water</b>	<b>M&amp;I Water<sup>1</sup></b>
<b>COST-OF-SERVICE (COS) RATE</b>		
Construction Costs	\$10.18	
DMC Aqueduct Intertie	\$1.17	
O&M Components		
Water Marketing	\$8.97	
Storage	\$18.01	
ARRA Cost	\$0.00	
<b>TOTAL COS RATE (Tier 1 Rate)</b>	<b>\$38.33</b>	
<b>IRRIGATION FULL-COST RATE</b>		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	TBD	
Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.	TBD	
<b>TIERED PRICING COMPONENTS (In Addition to Total COS Rate Above)</b>		
<b>IRRIGATION</b>		
Tier 2 Rate : >80% <=90% of Contract Total [Section 202(3) Irrigation Full Cost Rate - Irrigation COS Rate]/2 (Amount to be added to Tier 1 Rate)	TBD	
Tier 3 Rate : >90% of Contract Total [Section 202(3) Irrigation Full Cost Rate - Irrigation COS Rate] (Amount to be added to Tier 1 Rate)	TBD	
<b>CHARGES AND ASSESSMENTS (Payments in addition to Rates)</b>		
<b>P.L. 102-575 Surcharge</b> (Restoration Fund Payment) [Section 3407(d)(2)(A)]	\$10.91	
<b>P.L. 106-377 Assessment</b> (Trinity Public Utilities District) [Appendix B, Section 203]	\$0.12	

**EXPLANATORY NOTES**

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

**Additional detail of rate components is available on the Internet at:**

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

# Exhibit C<sup>@</sup>

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

### Unpaid Construction Cost from the 2020 Water Rate Books\*

**Contractor:** Fresno Slough Water District  
**Facility:** Delta-Mendota Pool  
**Contract:** 14-06-200-4019A-LTR1-P

Irrigation Construction Cost (2020 Irrigation Ratebook, Schedule A-2Ba)			
	Unpaid Cost	Discount	
Construction Cost	~ \$ 134,383		
2019 Repayment (Estimate) **	\$ 141,090		
Adjusted Construction Cost	\$ (6,707)	\$ (6,510)	
Intertie Construction Cost (N/A):	\$ 61,640	\$ 55,207	
<b>Total</b>	<b>\$ 54,933</b>	<b>\$ 48,697</b>	
If Paid in Installments (Used 20 yr CMT)			
	Due****		
Payment 1	9/1/2020	\$	12,327
Payment 2	9/1/2021	\$	12,327
Payment 3	9/1/2022	\$	12,327
Payment 4 ~~~	9/1/2023	\$	12,327
<b>Total Installment Payments</b>		<b>\$</b>	<b>49,307</b>
20 yr CMT Rates - 04/28/2020 (to be adjusted to effective date of contract) <sup>@</sup>			1.000%
Discount Rate (1/2 of the Treasury Rate per the WIIN Act, Section 4011(a)(2)(A))			0.500%

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

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

Fiscal Yr	Unpaid Allocated Construction Cost			Unpaid Intertie Construction Cost			Total
	Beginning Balance	Straight Line Repayment	Present Value	Beginning Balance	Straight Line Repayment	Present Value	Present Values
2020	\$ (6,707)	\$ (610)	\$ (606)	\$ 61,640	\$ 1,401	\$ 1,393	\$ 787
2021	\$ (6,098)	\$ (610)	\$ (604)	\$ 60,239	\$ 1,401	\$ 1,387	\$ 783
2022	\$ (5,488)	\$ (610)	\$ (601)	\$ 58,838	\$ 1,401	\$ 1,380	\$ 779
2023	\$ (4,878)	\$ (610)	\$ (598)	\$ 57,437	\$ 1,401	\$ 1,373	\$ 776
2024	\$ (4,268)	\$ (610)	\$ (595)	\$ 56,036	\$ 1,401	\$ 1,366	\$ 772
2025	\$ (3,659)	\$ (610)	\$ (592)	\$ 54,635	\$ 1,401	\$ 1,360	\$ 768
2026	\$ (3,049)	\$ (610)	\$ (589)	\$ 53,235	\$ 1,401	\$ 1,353	\$ 764
2027	\$ (2,439)	\$ (610)	\$ (586)	\$ 51,834	\$ 1,401	\$ 1,346	\$ 760
2028	\$ (1,829)	\$ (610)	\$ (583)	\$ 50,433	\$ 1,401	\$ 1,339	\$ 756
2029	\$ (1,220)	\$ (610)	\$ (580)	\$ 49,032	\$ 1,401	\$ 1,333	\$ 753
2030	\$ (610)	\$ (610)	\$ (577)	\$ 47,631	\$ 1,401	\$ 1,326	\$ 749
2031-63				\$ 46,230	\$ 46,230	\$ 40,250	\$ 40,250
<b>Total, Lump Sum Payment</b>		<b>\$ (6,510)</b>				<b>\$ 55,207</b>	<b>\$ 48,697</b>

Amount of Reduction, Lump Sum \$ (197) \$ 6,433 \$ 6,236

\* Costs are assumed to be paid and all charges are assumed to be accurate. If at a later date charges are determined to need update, they are still required. Also, unpaid charges are still a requirement under contract.

\*\* 2019 Repayment is based on a conservative estimate. If not sufficient, the remainder will be billed.

\*\*\* Excludes Interest to payment date as Interest will be computed as an annual expense as usual.

\*\*\*\* Contractor has 60 days from the effective date of the contract or installment dates to make payment.

~ M&I Credit from Schedule A-2Ba has been applied to Irrigation Unpaid Amount.

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

~~~Final Payment made in installments must be repaid by this date.