

Irrigation and M&I
Contract No. I75r-2485D

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

CONTRACT BETWEEN THE UNITED STATES
AND
TULARE IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

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11 THIS CONTRACT, made this 16th day of December, 2010, is entered
12 into pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary
13 thereto, including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70
15 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100
16 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and Title
17 X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San Joaquin
18 River Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively hereinafter
19 referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA,
20 hereinafter referred to as the United States and TULARE IRRIGATION DISTRICT hereinafter
21 referred to as the Contractor, a public agency of the State of California, duly organized, existing,
22 and acting pursuant to the laws thereof, with its principal place of business in California;

23 WITNESSETH, That

24 EXPLANATORY RECITALS

25 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
26 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood

27 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
28 restoration, generation and distribution of electric energy, salinity control, navigation and other
29 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and
30 the San Joaquin River and their tributaries; and

31 [2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton
32 Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant
33 Division Facilities, which will be used in part for the furnishing of water to the Contractor
34 pursuant to the terms of this Contract; and

35 [3rd] WHEREAS, the United States and the Contractor entered into Contract Number
36 I75r-2485, as amended, which established terms for the delivery to the Contractor of Project
37 Water from the Friant Division from October 18, 1950 through February 28, 1991; and

38 [4th] WHEREAS, the Contractor and the United States have entered into a renewal
39 contract and, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act
40 (CVPIA), subsequently entered into an interim renewal contract(s), identified as Contract
41 Number (s) I75r-2485R and I75r-2485-IR1, which provided for the continued water service to
42 Contractor from March 1, 1991 through February 28, 2001, and subsequently entered into a
43 long-term renewal contract identified as Contract Number I75r-2485-LTR1, which provided for
44 continued water service to Contractor through February 28, 2026, which was amended January
45 18, 2007, and is herein referred to as the "Existing Contract"; and

46 [5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
47 United States has acquired water rights and other rights to the flows of the San Joaquin River,

48 including without limitation the permits issued as the result of Decision 935 by the California
49 State Water Resource Control Board and the contracts described in subdivision (n) of Article 3
50 of this Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers
51 Project Water stored or flowing through Millerton Lake in accordance with State and Federal law
52 for the benefit of Project Contractors in the Friant Division and for other specified Project
53 purposes; and

54 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is
55 Project Water developed through the exercise of the rights described in the fifth (5th) Explanatory
56 Recital of this Contract; and

57 [7th] WHEREAS, as a result of litigation entitled “Natural Resources Defense Council,
58 et al. v Kirk Rogers, et al.” No. CIV-S-88-1658LLK/GGH, certain Contractors from the Friant
59 Division entered into a Stipulation of Settlement dated September 13, 2006, (the “Settlement”),
60 which settlement prescribes a Restoration Goal and a Water Management Goal and which
61 Settlement was subsequently confirmed and implemented through the SJRRSA; and

62 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the
63 Existing Contract to a repayment contract under subsection (d) of Section 9 of the Act of August
64 4, 1939, no later than December 31, 2010, and further directs that such contract shall require the
65 accelerated repayment of the Contractor’s allocated share of construction costs, either as a lump
66 sum payment by January 31, 2011 or in annual installments by January 31, 2014, which funds
67 will in turn be made available for implementation of the Settlement and SJRRSA, and which

68 costs otherwise would have been payable through annual water rates, with full repayment by
69 2030; and

70 [9th] WHEREAS, such repayment of costs will assist the United States with
71 implementation of actions required under the Settlement and the SJRRSA and provide the
72 Contractor the benefits provided in Section 10010 of the SJRRSA; and

73 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act)
74 directs the Secretary to provide that the other party to any contract entered into pursuant to
75 subsection (d) of Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to
76 subsection (e) of Section 9 of the Act of August 4, 1939 (water service contract) shall “have the
77 first right (to which the rights of the holders of any other type of irrigation water contract shall be
78 subordinate) to a stated share or quantity of the project’s available water supply for beneficial
79 use on the irrigable lands within the boundaries of, or owned by, the party and a permanent right
80 to such share or quantity upon completion of payment of the amount assigned for ultimate
81 return” by the Contractor subject to fulfillment of all obligations under the contract; and

82 [11th] WHEREAS, among other things, this Contract includes provisions granting the
83 Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

84 [12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
85 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
86 reasonable and beneficial use and/or has demonstrated projected future demand for water use
87 such that the Contractor has the capability and expects to utilize fully for reasonable and

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

90 [13th] WHEREAS, water obtained from the Central Valley Project has been relied upon
91 by urban and agricultural areas within California for more than fifty (50) years and is considered
92 by the Contractor as an essential portion of its water supply; and

93 [14th] WHEREAS, the economies of regions within the Central Valley Project,
94 including the Contractor's, depend upon the continued availability of water, including water
95 service from the Central Valley Project; and

96 [15th] WHEREAS, the Secretary intends through coordination, cooperation, and
97 partnerships to pursue measures to improve water supply, water quality, and reliability of the
98 Project for all Project purposes; and

99 [16th] WHEREAS, the mutual goals of the United States and the Contractor include: to
100 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
101 repayment of the Central Valley Project as required by law; to guard reasonably against Project
102 Water shortages; to achieve a reasonable balance among competing demands for use of Project
103 Water; and to comply with all applicable environmental statutes, all consistent with the legal
104 obligations of the United States relative to the Central Valley Project; and

105 [17th] WHEREAS, any time during the Year the Contracting Officer determines that a
106 need exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to
107 meet flood control criteria (currently referred to as "uncontrolled season"), taking into
108 consideration, among other things, anticipated upstream reservoir operations and the most

109 probable forecast of snowmelt and runoff projections for the upper San Joaquin River, Friant
110 Division Project Contractors utilize a portion of their undependable Class 2 Water in their
111 service areas to, among other things, assist in the management and alleviation of groundwater
112 overdraft in the Friant Division service area, provide opportunities for restoration of the San
113 Joaquin River below Friant Dam, minimize flooding along the San Joaquin River, encourage
114 optimal water management, and maximize the reasonable and beneficial use of the water; and

115 [18th] WHEREAS, the parties desire and intend that this Contract not provide a
116 disincentive to the Friant Division Project Contractors continuing to carry out the beneficial
117 activities set out in the Explanatory Recital immediately above; and

118 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all
119 of its obligations under the Existing Contract.

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

122 DEFINITIONS

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

125 (a) "Additional Capital Obligation" shall mean any additional construction
126 costs or other capitalized costs incurred after the effective date of this Contract or not reflected in
127 the Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any
128 amounts payable by Contractor as determined through the final adjustment described and
129 required by Section 10010(b) of the SJRRSA;

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

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

135 (d) "Class 1 Water" shall mean that supply of water stored in or flowing
136 through Millerton Lake which, subject to the contingencies hereinafter described in Articles 3,
137 12, and 13 of this Contract, will be available for delivery from Millerton Lake and the
138 Friant-Kern and Madera Canals as a dependable water supply during each Year;

139 (e) "Class 2 Water" shall mean that supply of water which can be made
140 available subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this
141 Contract for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to
142 the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence,
143 such water will be undependable in character and will be furnished only if, as, and when it can be
144 made available as determined by the Contracting Officer;

145 (f) "Condition of Shortage" shall mean a condition respecting the Project
146 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the
147 Contract Total;

148 (g) "Contracting Officer" shall mean the Secretary of the Interior's duly
149 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law
150 or regulation;

151 (h) “Contract Total” shall mean the maximum amount of Class 1 Water plus
152 the maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract
153 and is the stated share or quantity of the Project’s available water supply to which the Contractor
154 will have a permanent right in accordance with the 1956 Act and the terms of this Contract, upon
155 the Contractor’s complete payment of the Repayment Obligation, notwithstanding any
156 Additional Capital Obligation that may later be established, which right shall not be disturbed so
157 long as the Contractor fulfills all of its obligations under this Contract;

158 (i) “Contractor’s Service Area” shall mean the area to which the Contractor is
159 permitted to provide Project Water under this Contract as described in Exhibit “A” attached
160 hereto, which may be modified from time to time in accordance with Article 36 of this Contract
161 without amendment of this Contract;

162 (j) “CVPIA” shall mean the Central Valley Project Improvement Act, Title
163 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

164 (k) “Eligible Lands” shall mean all lands to which Irrigation Water may be
165 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
166 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

167 (l) “Excess Lands” shall mean all lands in excess of the limitations contained
168 in Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
169 Reclamation law;

170 (m) “Existing Capital Obligation” shall mean the remaining amount of
171 construction costs of the Contractor identified in the Central Valley Project Irrigation Water

172 Rates and/or Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as
173 adjusted to reflect payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A)
174 of the SJRRSA. The Contracting Officer has computed the Existing Capital Obligation in a
175 manner consistent with the SJRRSA and such amount is set forth in Exhibits "C-1" and "C-2",
176 incorporated herein by reference;

177 (n) "Financing Costs", for purposes of computing the reduction of certain
178 charges as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference
179 between the net present value of the Existing Capital Obligation discounted using the full
180 Treasury rate and the Existing Capital Obligation discounted using one-half the Treasury rate, as
181 set forth in Section 10010(d)(3) of the SJRRSA;

182 (o) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3)
183 or 202(3) of the RRA, whichever is applicable;

184 (p) "Ineligible Lands" shall mean all lands to which Irrigation Water may not
185 be delivered in accordance with Section 204 of the RRA;

186 (q) "Irrigation Full Cost Water Rate" shall have the same meaning as "full
187 cost" as that term is used in Paragraph (3) of Section 202 of the RRA;

188 (r) "Irrigation Water" shall mean water made available from the Project that
189 is used primarily in the production of agricultural crops or livestock, including domestic use
190 incidental thereto, and watering of livestock;

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

193 (t) "Long Term Historic Average" shall mean the average of the final forecast
194 of Water Made Available to the Contractor pursuant to this Contract and the contracts referenced
195 in the third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

196 (u) "Municipal and Industrial (M&I) Water" shall mean water made available
197 from the Project other than Irrigation Water made available to the Contractor. M&I Water shall
198 include water used for human use and purposes such as the watering of landscaping or pasture
199 for animals (e.g., horses) which are kept for personal enjoyment or water delivered to land
200 holdings operated in units of less than five (5) acres unless the Contractor establishes to the
201 satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a
202 use described in subdivision (r) of this Article of this Contract;

203 (v) "M&I Full Cost Water Rate" shall mean the annual rate, which, as
204 determined by the Contracting Officer, shall amortize the expenditures for construction allocable
205 to Project M&I facilities in service, including, O&M deficits funded, less payments, over such
206 periods as may be required under Federal Reclamation law with interest accruing from the dates
207 such costs were first incurred plus the applicable rate for the O&M of such Project facilities.
208 Interest rates used in the calculation of the M&I Full Cost Rate shall comply with the Interest
209 Rate methodology contained in Section 202(3) (B) and (C) of the RRA;

210 (w) "Operation and Maintenance" or "O&M" shall mean normal and
211 reasonable care, control, operation, repair, replacement (other than Capital replacement), and
212 maintenance of Project facilities;

213 (x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or
214 its successor, a Non-Federal entity, which has the obligation to operate and maintain all or a
215 portion of the Friant Division Facilities pursuant to an agreement with the United States and
216 which may have funding obligations with respect thereto;

217 (y) Omitted;

218 (z) "Project" shall mean the Central Valley Project owned by the United
219 States and managed by the Department of the Interior, Bureau of Reclamation;

220 (aa) "Project Contractors" shall mean all parties who have a long-term water
221 service contract or repayment contract for Project Water from the Project with the United States
222 pursuant to Federal Reclamation law;

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

226 (cc) "Rates" shall mean the payments for O&M costs as determined annually
227 by the Contracting Officer in accordance with the then-existing applicable water ratesetting
228 policies for the Project, as described in subdivision (a) of Article 7 of this Contract and
229 illustrated in Exhibit "B", attached hereto;

230 (dd) "Recovered Water Account" shall mean the program, as defined in the
231 Settlement, to make water available to all of the Friant Division Project Contractors who provide
232 water to meet interim flows or restoration flows for the purpose of reducing or avoiding the
233 impact of the interim flows and restoration flows on such Contractors;

234 (ee) "Repayment Obligation", as provided in subdivision (a)(2)(A) of Article 7
235 of this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by
236 one-half of the Treasury rate and computed consistent with the provisions of Section
237 10010(a)(3)(A) of the SJRRSA to be paid as either a lump sum payment by January 31, 2011 or
238 in approximately equal annual installments by January 31, 2014;

239 (ff) "Secretary" shall mean the Secretary of the Interior, a duly appointed
240 successor, or an authorized representative acting pursuant to any authority of the Secretary and
241 through any agency of the Department of the Interior;

242 (gg) "Settlement" shall mean the Stipulation of Settlement dated September 13,
243 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued
244 by the Court pursuant to the terms and conditions of the Settlement in Natural Resources
245 Defense Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

246 (hh) "Tiered Pricing Component" shall be the incremental amount to be paid
247 for each acre-foot of Water Delivered as described in subdivision (l)(1) of Article 7 of this
248 Contract;

249 (ii) "Water Delivered" or "Delivered Water" shall mean Project Water
250 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting
251 Officer;

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

255 (kk) "Water Management Goal" shall mean the goal of the Settlement to
256 reduce or avoid adverse water supply impacts to all the Friant Division Project Contractors that
257 may result from the interim flows and restoration flows provided for in the Settlement;

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

261 (mm) "Year" shall mean the period from and including March 1 of each
262 Calendar Year through the last day of February of the following Calendar Year.

263 EFFECTIVE DATE OF CONTRACT

264 2. (a) This Contract shall become effective on the date first hereinabove written
265 and shall continue so long as the Contractor is making the annual payments required herein and
266 paying any other amounts owing under this Contract and applicable law, unless it is terminated
267 by the Contracting Officer by reason of a material uncured breach by the Contractor; Provided,
268 That the Contracting Officer shall not seek to terminate this Contract by reason of an asserted
269 material uncured breach by the Contractor unless it has first provided at least sixty (60) days
270 written notice of the asserted breach to the Contractor and the Contractor has failed to cure such
271 breach (or to diligently commence curative actions satisfactory to the Contracting Officer for a
272 breach that cannot be fully cured within sixty (60) days) within the sixty (60)-day notice period;
273 Provided further, That this Contract may be terminated at any time by mutual consent of the
274 parties hereto.

275 (b) Upon complete payment of the Repayment Obligation by the Contractor,
276 and notwithstanding any Additional Capital Obligation that may later be established, the Tiered
277 Pricing Component as that term is utilized in this Contract, the acreage limitations, reporting, and
278 Full Cost pricing provisions of Federal Reclamation law, and subdivisions (k), (l), (o) through
279 (q), (s), and (v) of Article 1, subdivisions (a)(2)(A), (l)(1), (l)(2), and (l)(3) of Article 7, Article
280 14, subdivision (a) of Article 18, and Article 25, all of this Contract, shall no longer be
281 applicable to the Contractor. Upon complete payment of the Repayment Obligation by the
282 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
283 the terms of this Contract shall be as provided in the restated contract attached hereto as Exhibit
284 "E", which has been prepared solely as a matter of administrative convenience. Exhibit "E"
285 makes no substantive revisions other than those required by this subdivision of this Article of
286 this Contract. Accordingly, upon complete payment of the Repayment Obligation by the
287 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
288 the parties shall refer to Exhibit "E" as their entire agreement under this Contract.

289 (c) This Contract supersedes in its entirety and is intended to replace in full
290 the Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or
291 unenforceable for any reason other than a material uncured breach of this Contract by the
292 Contractor, the Existing Contract shall not be superseded and shall be in full force and effect.

293 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

294 3. (a) During each Year, consistent with all applicable State water rights,
295 permits, and licenses, Federal law, the Settlement including the SJRRSA, and subject to the

296 provisions set forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make
297 available for delivery to the Contractor from the Project 30,000 acre-feet of Class 1 Water and
298 141,000 acre-feet of Class 2 Water for irrigation and M&I purposes. The quantity of Water
299 Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for
300 pursuant to the provisions of Articles 4 and 7 of this Contract.

301 (b) Upon complete payment of the Repayment Obligation by the Contractor,
302 and notwithstanding any Additional Capital Obligation that may later be established, the
303 Contractor shall have a permanent right to the Contract Total in accordance with the 1956 Act
304 and the terms of this Contract. This right shall not be disturbed so long as the Contractor fulfills
305 all of its obligations hereunder. The quantity of water made available for delivery in any given
306 Year shall remain subject to the terms and conditions of subdivision (a) of this Article of this
307 Contract.

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

310 (d) The Contractor shall make reasonable and beneficial use of all Project
311 Water or other water furnished pursuant to this Contract. Groundwater recharge programs,
312 groundwater banking programs, surface water storage programs, and other similar programs
313 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
314 Contractor's Service Area which are consistent with applicable State law and result in use
315 consistent with applicable Federal Reclamation law will be allowed; Provided, That any direct
316 recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted

317 pursuant to Article 27 of this Contract; Provided further, That such Water Conservation Plan
318 demonstrates sufficient lawful uses exist in the Contractor's Service Area so that using a
319 long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such
320 uses and in compliance with Federal Reclamation law. Groundwater recharge programs,
321 groundwater banking programs, surface water storage programs, and other similar programs
322 utilizing Project Water or other water furnished pursuant to this Contract conducted outside the
323 Contractor's Service Area may be permitted upon written approval of the Contracting Officer,
324 which approval will be based upon environmental documentation, Project Water rights, and
325 Project operational concerns. The Contracting Officer will address such concerns in regulations,
326 policies, or guidelines.

327 (e) The Contractor, through this Contract, shall comply with requirements
328 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation
329 regarding the execution of the Existing Contract undertaken pursuant to Section 7 of the
330 Endangered Species Act of 1973, as amended, as well as the requirements of any other biological
331 opinions applicable to Project Water delivery under this Contract, that are within the
332 Contractor's legal authority to implement. The Contractor shall comply with the limitations or
333 requirements imposed by environmental documentation applicable to the Contractor and within
334 its legal authority to implement regarding specific activities, including conversion of Irrigation
335 Water to M&I Water. Nothing herein shall be construed to prevent the Contractor from
336 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any

337 biological opinion or other environmental documentation referred to in this Article of this
338 Contract.

339 (f) Subject to subdivisions (l) and (n) of this Article of this Contract,
340 following the declaration of Water Made Available under Article 4 of this Contract, the
341 Contracting Officer will make a determination whether Project Water, or other water available to
342 the Project, can be made available to the Contractor in addition to the Contract Total in this
343 Article of this Contract during the Year without adversely impacting the Project or other Project
344 Contractors and consistent with the Secretary's legal obligations. At the request of the
345 Contractor, the Contracting Officer will consult with the Contractor prior to making such a
346 determination. Subject to subdivisions (l) and (n) of this Article of this Contract, if the
347 Contracting Officer determines that Project Water, or other water available to the Project, can be
348 made available to the Contractor, the Contracting Officer will announce the availability of such
349 water and shall so notify the Contractor as soon as practical. The Contracting Officer will
350 thereafter meet with the Contractor and other Project Contractors capable of taking such water to
351 determine the most equitable and efficient allocation of such water. If the Contractor requests
352 the delivery of any quantity of such water, the Contracting Officer shall make such water
353 available to the Contractor in accordance with applicable statutes, regulations, guidelines, and
354 policies.

355 (g) The Contractor may request permission to reschedule for use during the
356 subsequent Year some or all of the Water Made Available to the Contractor during the current
357 Year referred to as "carryover." The Contractor may request permission to use during the

358 current Year a quantity of Project Water which may be made available by the United States to
359 the Contractor during the subsequent Year referred to as "pre-use." The Contracting Officer's
360 written approval may permit such uses in accordance with applicable statutes, regulations,
361 guidelines, and policies.

362 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
363 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract
364 shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this
365 Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to
366 impose shortages under Article 12 or subdivision (b) of Article 13 of this Contract.

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

371 (j) The Contracting Officer shall make reasonable efforts to protect the water
372 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to
373 provide the water available under this Contract. The Contracting Officer shall not object to
374 participation by the Contractor, in the capacity and to the extent permitted by law, in
375 administrative proceedings related to the water rights and other rights described in the fifth (5th)
376 Explanatory Recital of this Contract; Provided however, That the Contracting Officer retains the
377 right to object to the substance of the Contractor's position in such a proceeding. Provided

378 further, that in such proceedings the Contracting Officer shall recognize the Contractor has a
379 legal right under the terms of this Contract to use Project Water.

380 (k) Project Water furnished to the Contractor during any month designated in
381 a schedule or revised schedule submitted by the Contractor and approved by the Contracting
382 Officer shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent
383 that Class 1 Water is called for in such schedule for such month and shall be deemed to have
384 been accepted as Class 2 Water to the extent Class 2 Water is called for in such schedule for such
385 month. If in any month the Contractor diverts a quantity of water in addition to the total amount
386 of Class 1 Water and Class 2 Water set forth in the Contractor's approved schedule or revised
387 schedule for such month, such additional diversions shall be charged first against the
388 Contractor's remaining Class 2 Water supply available in the current Year. To the extent the
389 Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to
390 account for such additional diversions, such additional diversions shall be charged against the
391 Contractor's remaining Class 1 Water supply available in the current Year. To the extent the
392 Contractor's remaining Class 1 Water and Class 2 Water supplies available in the current Year
393 are not sufficient to account for such additional diversions, such additional diversions shall be
394 charged first against the Contractor's available Class 2 Water supply and then against the
395 Contractor's available Class 1 Water supply, both for the following Year. Payment for all
396 additional diversions of water shall be made in accordance with Article 7 of this Contract.

397 (l) If the Contracting Officer determines there is a Project Water supply
398 available at Friant Dam as the result of an unusually large water supply not otherwise storable for

399 Project purposes or infrequent and otherwise unmanaged flood flows of short duration, such
400 water will be made available to the Contractor and others under Section 215 of the Act of
401 October 12, 1982, pursuant to the priorities specified below if the Contractor enters into a
402 temporary contract with the United States not to exceed one (1) year for the delivery of such
403 water or as otherwise provided for in Federal Reclamation law and associated regulations. Such
404 water may be identified by the Contractor either (i) as additional water to supplement the supply
405 of Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon
406 written notification to the Contracting Officer, as water to be credited against the Contractor's
407 Class 2 Water supply available pursuant to this Contract. The Contracting Officer shall make
408 water determined to be available pursuant to this subsection according to the following priorities:
409 first, to Contractors for Class 1 Water and/or Class 2 Water within the Friant Division; second, to
410 Contractors in the Cross Valley Division of the Project. The Contracting Officer will consider
411 requests from other parties for Section 215 Water for use within the area identified as the Friant
412 Division service area in the environmental assessment developed in connection with the
413 execution of the Existing Contract.

414 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
415 Contracting Officer in connection with the implementation of this Contract, is intended to
416 override, modify, supersede or otherwise interfere with any term or condition of the water rights
417 and other rights referred in the fifth (5th) Explanatory Recital of this Contract.

418 (n) The rights of the Contractor under this Contract are subject to the terms of
419 the contract for exchange waters, dated July 27, 1939, between the United States and the San

420 Joaquin and Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred
421 to as the Exchange Contractors), Contract No. I1r-1144, as amended. The United States agrees
422 that it will not deliver to the Exchange Contractors thereunder waters of the San Joaquin River
423 unless and until required by the terms of said contract, and the United States further agrees that it
424 will not voluntarily and knowingly determine itself unable to deliver to the Exchange
425 Contractors entitled thereto from water that is available or that may become available to it from
426 the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta those quantities
427 required to satisfy the obligations of the United States under said Exchange Contract and under
428 Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract I1r-1145,
429 dated July 27, 1939).

430 (o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph
431 16 of the Settlement, the Contracting Officer is required to develop and implement a plan for
432 recirculation, recapture, reuse, exchange or transfer of water released for restoration flows or
433 interim flows, as those terms are defined in the Settlement, to reduce or avoid impacts to water
434 deliveries caused by said restoration flows or interim flows and water developed through such
435 activities may be made available (i) to the Contractor without the need of an additional contract,
436 and/or (ii) to others on behalf of the Contractor under terms mutually acceptable to the
437 Contractor and the Contracting Officer that are consistent with the Water Management Goal.

438 TIME FOR DELIVERY OF WATER

439 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer
440 shall announce the Contracting Officer's initial declaration of the Water Made Available. The

441 declaration will be updated monthly and more frequently if necessary, based on then-current
442 operational and hydrologic conditions and a new declaration with changes, if any, to the Water
443 Made Available will be made. The Contracting Officer shall provide forecasts of Project
444 operations and the basis of the estimate, with relevant supporting information, upon the written
445 request of the Contractor. Concurrently with the declaration of the Water Made Available, the
446 Contracting Officer shall provide the Contractor with the updated Long Term Historic Average.
447 The declaration of Project operations will be expressed in terms of both Water Made Available
448 and the Long Term Historic Average.

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

455 (c) The Contractor shall not schedule Project Water in excess of the quantity
456 of Project Water the Contractor intends to put to reasonable and beneficial use within the
457 Contractor's Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract
458 or bank pursuant to subdivision (d) of Article 3 of this Contract during any Year.

459 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
460 Contract, the United States shall deliver Project Water to the Contractor in accordance with the
461 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any

462 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
463 time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided,
464 That the total amount of water requested in that schedule or revision does not exceed the
465 quantities announced by the Contracting Officer pursuant to the provisions of subdivision (a) of
466 Article 3 of this Contract, and the Contracting Officer determines that there will be sufficient
467 capacity available in the appropriate Friant Division Facilities to deliver the water in accordance
468 with that schedule; Provided further, That the Contractor shall not schedule the delivery of any
469 water during any period as to which the Contractor is notified by the Contracting Officer or
470 Operating Non-Federal Entity that Project facilities required to make deliveries to the Contractor
471 will not be in operation because of scheduled O&M.

472 (e) The Contractor may, during the period from and including November 1 of
473 each Year through and including the last day of February of that Year, request delivery of any
474 amount of the Class 1 Water estimated by the Contracting Officer to be made available to it
475 during the following Year. The Contractor may, during the period from and including January 1
476 of each Year (or such earlier date as may be determined by the Contracting Officer) through and
477 including the last day of February of that Year, request delivery of any amount of Class 2 Water
478 estimated by the Contracting Officer to be made available to it during the following Year. Such
479 water shall hereinafter be referred to as pre-use water. Such request must be submitted in writing
480 by the Contractor for a specified quantity of pre-use and shall be subject to the approval of the
481 Contracting Officer. Payment for pre-use water so requested shall be at the appropriate Rate(s)
482 for the following Year in accordance with Article 7 of this Contract and shall be made in

483 advance of delivery of any pre-use water. The Contracting Officer shall deliver such pre-use
484 water in accordance with a schedule or any revision thereof submitted by the Contractor and
485 approved by the Contracting Officer, to the extent such water is available and to the extent such
486 deliveries will not interfere with the delivery of Project Water entitlements to other Friant
487 Division Contractors or the physical maintenance of the Project facilities. The quantities of
488 pre-use Water Delivered pursuant to this subdivision shall be deducted from the quantities of
489 water that the Contracting Officer would otherwise be obligated to make available to the
490 Contractor during the following Year; Provided, That the quantity of pre-use water to be
491 deducted from the quantities of either Class 1 Water or Class 2 Water to be made available to the
492 Contractor in the following Year shall be specified by the Contractor at the time the pre-use
493 water is requested or as revised in its first schedule for the following Year submitted in
494 accordance with subdivision (b) of this Article of this Contract, based on the availability of the
495 following Year water supplies as determined by the Contracting Officer.

496 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

501 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
502 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of

503 water in the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts
504 established pursuant to subdivision (a) of this Article of this Contract.

505 (c) The Contractor shall not deliver Project Water to land outside the
506 Contractor's Service Area unless approved in advance by the Contracting Officer. Until
507 complete payment of the Repayment Obligation by the Contractor, and notwithstanding any
508 Additional Capital Obligation that may later be established, the Contractor shall deliver Project
509 Water in accordance with applicable acreage limitations, reporting, and Full Cost pricing
510 provisions of Federal Reclamation law and any applicable land classification provisions of the
511 associated regulations.

512 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
513 measured and recorded with equipment furnished, installed, operated, and maintained by the
514 United States, the Operating Non-Federal Entity or other appropriate entity as designated by the
515 Contracting Officer (hereafter "other appropriate entity") at the point or points of delivery
516 established pursuant to subdivision (a) of this Article of this Contract. Upon the request of either
517 party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the
518 responsible Operating Non-Federal Entity, the accuracy of such measurements and shall take any
519 necessary steps to adjust any errors appearing therein. For any period of time when accurate
520 measurements have not been made, the Contracting Officer shall consult with the Contractor and
521 the responsible Operating Non-Federal Entity prior to making a final determination of the
522 quantity delivered for that period of time.

523 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity
524 shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project
525 Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified
526 in subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United
527 States, its officers, employees, agents, and assigns on account of damage or claim of damage of
528 any nature whatsoever for which there is legal responsibility, including property damage,
529 personal injury, or death arising out of or connected with the control, carriage, handling, use,
530 disposal, or distribution of such Project Water beyond such delivery points, except for any
531 damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its
532 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity,
533 with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct
534 of the Contracting Officer or any of its officers, employees, agents, or assigns, including any
535 responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of
536 its officers, employees, agents, or assigns including any responsible Operating Non-Federal
537 Entity; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated
538 by the United States or responsible Operating Non-Federal Entity; Provided, That the Contractor
539 is not the Operating Non-Federal Entity that owned or operated the malfunctioning facility(ies)
540 from which the damage claim arose.

541 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

542 6. (a) The Contractor has established a measurement program satisfactory to the
543 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's

544 Service Area is measured at each agricultural turnout; and water delivered for municipal and
545 industrial purposes is measured at each municipal and industrial service connection. The water
546 measuring devices or water measuring methods of comparable effectiveness must be acceptable
547 to the Contracting Officer. The Contractor shall be responsible for installing, operating, and
548 maintaining and repairing all such measuring devices and implementing all such water
549 measuring methods at no cost to the United States. The Contractor shall use the information
550 obtained from such water measuring devices or water measuring methods to ensure its proper
551 management of the water, to bill water users for water delivered by the Contractor; and, if
552 applicable, to record water delivered for municipal and industrial purposes by customer class as
553 defined in the Contractor's water conservation plan provided for in Article 27 of this Contract.
554 Nothing herein contained, however, shall preclude the Contractor from establishing and
555 collecting any charges, assessments, or other revenues authorized by California law.

556 (b) To the extent the information has not otherwise been provided, upon
557 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
558 report describing the measurement devices or water measuring methods being used or to be used
559 to implement subdivision (a) of this Article of this Contract and identifying the agricultural
560 turnouts and the municipal and industrial service connections or alternative measurement
561 programs approved by the Contracting Officer, at which such measurement devices or water
562 measuring methods are being used, and, if applicable, identifying the locations at which such
563 devices and/or methods are not yet being used including a time schedule for implementation at
564 such locations. The Contracting Officer shall advise the Contractor in writing within sixty (60)

565 days as to the adequacy of, and necessary modifications, if any, of the measuring devices or
566 water measuring methods identified in the Contractor's report and if the Contracting Officer does
567 not respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the
568 Contractor that the measuring devices or methods are inadequate, the parties shall within sixty
569 (60) days following the Contracting Officer's response, negotiate in good faith the earliest
570 practicable date by which the Contractor shall modify said measuring devices and/or measuring
571 methods as required by the Contracting Officer to ensure compliance with subdivision (a) of this
572 Article of this Contract.

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

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

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

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

584 7. (a) The Contractor's cost obligations for all Delivered Water shall be
585 determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted

586 in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the
587 SJRRSA, and such ratesetting policies shall be amended, modified, or superseded only through a
588 public notice and comment procedure; (ii) applicable Federal Reclamation law and associated
589 rules and regulations, or policies; and (iii) other applicable provisions of this Contract.

590 (1) The Contractor shall pay the United States as provided for in this
591 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance
592 with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to
593 recover its estimated reimbursable costs included in the O&M component of the Rate and
594 amounts established to recover other charges and deficits, other than the construction costs. The
595 Rates for O&M costs and Charges shall be adjusted, as appropriate, in accordance with the
596 provisions of the SJRRSA.

597 (2) In accordance with the SJRRSA, the Contractor's allocable share
598 of Project construction costs will be repaid pursuant to the provisions of this Contract.

599 (A) The amount due and payable to the United States, pursuant
600 to the SJRRSA, shall be the Repayment Obligation. The Repayment Obligation has been
601 computed by the Contracting Officer in a manner consistent with the SJRRSA and is set forth,
602 both as a lump sum payment and as four (4) approximately equal annual installments, which
603 amounts together with the manner in which such amounts were calculated are set forth in
604 Exhibits "C-1" and "C-2". The Repayment Obligation is due in lump sum by January 31, 2011
605 or in approximate equal annual installments no later than January 31, 2014, as provided by the
606 SJRRSA. The Contractor must provide appropriate notice to the Contracting Officer in writing

607 not later than thirty (30) days prior to January 31, 2011 if electing to repay the amount due using
608 the lump sum alternative. If such notice is not provided by such date, the Contractor shall be
609 deemed to have elected the installment payment alternative, in which case, the first such payment
610 shall be made no later than May 1, 2011, the second payment shall be made no later than the first
611 anniversary of the first payment date, the third payment shall be made no later than the second
612 anniversary of the first payment date, and the final payment shall be made no later than January
613 31, 2014. If the installment payment option is elected by the Contractor, the Contractor may
614 pre-pay the remaining portion of the Repayment Obligation by giving the Contracting Officer
615 sixty (60) days written notice, in which case, the Contracting Officer shall re-compute the
616 remaining amount due to reflect the pre-payment using the same methodology as was used to
617 compute the initial annual installment payment amount, which is illustrated in Exhibit "C-2".
618 Notwithstanding any Additional Capital Obligation that may later be established, receipt of the
619 Contractor's payment of the Repayment Obligation by the United States shall fully and
620 permanently satisfy the Existing Capital Obligation.

621 (B) Project construction costs or other capitalized costs
622 attributable to capital additions to the Project incurred after the effective date of this Contract or
623 that are not reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly
624 assignable to the Contractor, shall be repaid as prescribed by the SJRRSA without interest except
625 as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue
626 on the M&I portion of unpaid Project construction costs or other capitalized cost assigned to the
627 Contractor until such costs are paid. Increases or decreases in Project construction costs or other

628 capitalized costs assigned to the Contractor caused solely by annual adjustment of Project
629 construction costs or other capitalized costs assigned to each Central Valley Project Contractor
630 by the Secretary shall not be considered in determining the amounts to be paid pursuant to this
631 subdivision (a)(2)(B), but will be considered under subdivision (b) of this Article. A separate
632 repayment agreement shall be established by the Contractor and the Contracting Officer to
633 accomplish repayment of all additional Project construction costs or other capitalized costs
634 assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the
635 following:

636 (1) If the collective annual Project construction costs or
637 other capitalized costs that are incurred after the effective date of this Contract and properly
638 assignable to the Contractors are less than \$5,000,000, then the portion of such costs properly
639 assignable to the Contractor shall be repaid in not more than five (5) years after notification of
640 the allocation. This amount is the result of a collective annual allocation of Project construction
641 costs to the Contractors exercising contract conversions; Provided, That the reference to the
642 amount of \$5,000,000 shall not be a precedent in any other context.

643 (2) If the collective annual Project construction costs or
644 other capitalized costs that are incurred after the effective date of this Contract and properly
645 assignable to the Contractors are \$5,000,000 or greater, then the portion of such costs properly
646 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law.
647 This amount is the result of a collective annual allocation of Project construction costs to the

648 Contractors exercising contract conversions; Provided, That the reference to the amount of
649 \$5,000,000 shall not be a precedent in any other context.

650 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost
651 allocation by the Secretary upon completion of the construction of the Central Valley Project, the
652 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any
653 reallocation of Project construction costs or other capitalized costs assigned to the Contractor
654 that may have occurred between the determination of Contractor's Existing Capital Obligation
655 and the final cost allocation. In the event that the final cost allocation, as determined by the
656 Secretary, indicates that the costs properly assignable to the Contractor, as determined by the
657 Contracting Officer, are greater than the Existing Capital Obligation and other amounts of
658 Project construction costs or other capitalized costs paid by the Contractor, then the Contractor
659 shall be obligated to pay the remaining allocated costs. The term of such additional repayment
660 contract shall be no less than one (1) year and no more than ten (10) years, however, mutually
661 agreeable provisions regarding the rate of repayment of such amount may be developed by the
662 parties. In the event that the final cost allocation, as determined by the Secretary, indicates that
663 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are less
664 than the Existing Capital Obligation and other amounts of Project construction costs or other
665 capitalized costs paid by the Contractor, then the Contracting Officer shall credit such
666 overpayment as an offset against any outstanding or future obligation of the Contractor,
667 consistent with the SJRRSA. This Contract shall be implemented in a manner consistent with
668 Section 10010(f) of the SJRRSA.

669 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall
670 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
671 period October 1, of the current Calendar Year, through September 30, of the following Calendar
672 Year, and the basis for such estimate. The Contractor shall be allowed not less than two (2)
673 months to review and comment on such estimates. On or before September 15 of each Calendar
674 Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect
675 during the period October 1 of the current Calendar Year, through September 30 of the following
676 Calendar Year, and such notification shall revise Exhibit "B". Charges shall be subject to
677 reduction consistent with the SJRRSA based upon the average annual delivery amount agreed to
678 by the Contracting Officer and the Contractor.

679 (1) Upon complete payment of the Repayment Obligation by the
680 Contractor, and notwithstanding any Additional Capital Obligation that may later be established,
681 for the years 2020 through 2039 inclusive, Charges shall reflect the reduction on a per acre-foot
682 basis consistent with Section 10010(d)(1) of the SJRRSA. Exhibit "D" sets forth the reduction in
683 Charges to offset the Financing Costs as prescribed in Section 10010(d)(1) of the SJRRSA;
684 Provided, That if the Secretary determines such Charges are otherwise needed, an equivalent
685 reduction will be made to O&M costs consistent with such provisions of the SJRRSA.
686 Consistent with Section 10010(d)(1) of the SJRRSA and as shown in Exhibit "D", the Friant
687 Surcharge reduction has been calculated based upon the anticipated average annual water
688 deliveries, for the purpose of this reduction only, mutually agreed upon by the Secretary and the
689 Contractor for the period from January 1, 2020 through December 31, 2039. The Friant

690 Surcharge reduction shall remain fixed and shall only be applied to Water Delivered pursuant to
691 this Contract to which the Friant Surcharge applies (including but not limited to water
692 transferred, banked, or exchanged), commencing on January 1, 2020 until such volume of Water
693 Delivered equals 904,800 acre-feet or December 31, 2039, whichever occurs first.

694 (2) Further, to fully offset the Financing Costs, Contractor shall be
695 entitled to a reduction in other outstanding or future obligations of the Contractor in accordance
696 with Section 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding
697 or future obligations of the Contractor after October 1, 2019 has been computed by the
698 Contracting Officer, and as computed, such amount is set forth in Exhibit "D".

699 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall
700 make available to the Contractor an estimate of the Rates and Tiered Pricing Component for
701 Project Water for the following Year and the computations and cost allocations upon which those
702 Rates are based. The Contractor shall be allowed not less than two (2) months to review and
703 comment on such computations and cost allocations. By December 31 of each Calendar Year,
704 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing
705 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B".
706 The O&M component of the Rate may be reduced as provided in the SJRRSA.

707 (e) At the time the Contractor submits the initial schedule for the delivery of
708 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
709 Contractor shall make an advance payment to the United States equal to the total amount payable
710 pursuant to the applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the

711 Project Water scheduled to be delivered pursuant to this Contract during the first two (2)
712 calendar months of the Year. Before the end of the first month and before the end of each
713 calendar month thereafter, the Contractor shall make an advance payment to the United States, at
714 the Rate(s) set under subdivision (a) of this Article of this Contract, for the Water Scheduled to
715 be delivered pursuant to this Contract during the second month immediately following.
716 Adjustments between advance payments for Water Scheduled and payments at Rates due for
717 Water Delivered shall be made before the end of the following month; Provided, That any
718 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which
719 increases the amount of Water Delivered pursuant to this Contract during any month shall be
720 accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project
721 Water is not delivered to the Contractor in advance of such payment. In any month in which the
722 quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of
723 Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered
724 to the Contractor unless and until an advance payment at the Rates then in effect for such
725 additional Project Water is made. Final adjustment between the advance payments for the Water
726 Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this
727 Contract shall be made as soon as practicable but no later than April 30th of the following Year,
728 or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article
729 3 of this Contract if such water is not delivered by the last day of February.

730 (f) The Contractor shall also make a payment in addition to the Rate(s) in
731 subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the
732 Charges and the appropriate Tiered Pricing Component then in effect, before the end of the
733 month following the month of delivery; Provided, That the Contractor may be granted an
734 exception from the Tiered Pricing Component pursuant to subdivision (1)(2) of this Article of this
735 Contract. The payments shall be consistent with the quantities of Irrigation Water and M&I
736 Water Delivered as shown in the water delivery report for the subject month prepared by the
737 Contracting Officer. Such water delivery report shall be the basis for payment of Charges and
738 Tiered Pricing Components by the Contractor, and shall be provided to the Contractor by the
739 Contracting Officer (as applicable) within five (5) days after the end of the month of delivery.
740 The water delivery report shall be deemed a bill basis for payment of Charges and the applicable
741 Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment
742 of Charges shall be made through the adjustment of payments due to the United States for
743 Charges for the next month. Any amount to be paid for past due payment of Charges shall be
744 computed pursuant to Article 21 of this Contract.

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

751 (h) Payments to be made by the Contractor to the United States under this
752 Contract may be paid from any revenues available to the Contractor.

753 (i) All revenues received by the United States from the Contractor relating to
754 the delivery of Project Water or the delivery of non-project water through Project facilities shall
755 be allocated and applied in accordance with Federal Reclamation law and the associated rules or
756 regulations, the then-existing Project Ratesetting policies for M&I Water or Irrigation Water, and
757 consistent with the SJRRSA.

758 (j) The Contracting Officer shall keep its accounts, pertaining to the
759 administration of the financial terms and conditions of its long-term contracts, in accordance
760 with applicable Federal standards so as to reflect the application of Project costs and revenues.
761 The Contracting Officer shall, each Year upon request of the Contractor, provide to the
762 Contractor a detailed accounting of all Project and Contractor expense allocations, the
763 disposition of all Project and Contractor revenues, and a summary of all water delivery
764 information. The Contracting Officer and the Contractor shall enter into good faith negotiations
765 to resolve any discrepancies or disputes relating to accountings, reports, or information.

766 (k) The parties acknowledge and agree that the efficient administration of this
767 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
768 policies, and procedures used for establishing Rates, Charges, Tiered Pricing Components,
769 and/or for making and allocating payments, other than those set forth in this Article of this
770 Contract, may be in the mutual best interest of the parties, it is expressly agreed that the parties

771 may enter into agreements to modify the mechanisms, policies, and procedures for any of those
772 purposes while this Contract is in effect without amending this Contract.

773 (1) (1) Beginning at such time as the total of the deliveries of Class 1
774 Water and Class 2 Water in a Year exceed eighty (80) percent of the Contract Total, then before
775 the end of the month following the month of delivery the Contractor shall make an additional
776 payment to the United States equal to the applicable Tiered Pricing Component. The Tiered
777 Pricing Component for the total of the deliveries of Class 1 Water and Class 2 Water in excess of
778 eighty (80) percent of the Contract Total, but less than or equal to ninety (90) percent of the
779 Contract Total, shall equal the one-half of the difference between the Rate established under
780 subdivision (a) of this Article of this Contract and the Irrigation Full Cost Water Rate, or M&I
781 Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the total of
782 the deliveries of Class 1 Water and Class 2 Water which exceeds ninety (90) percent of the
783 Contract Total shall equal the difference between (i) the Rate established under subdivision (a) of
784 this Article of this Contract and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water
785 Rate, whichever is applicable.

786 (2) Subject to the Contracting Officer's written approval, the
787 Contractor may request and receive an exemption from such Tiered Pricing Components for
788 Project Water Delivered to produce a crop which the Contracting Officer determines will provide
789 significant and quantifiable habitat values for waterfowl in fields where the water is used and the
790 crops are produced; Provided, That the exemption from the Tiered Pricing Components for
791 Irrigation Water shall apply only if such habitat values can be assured consistent with the

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

794 (3) For purposes of determining the applicability of the Tiered Pricing
795 Components pursuant to this Article of this Contract, Water Delivered shall include Project
796 Water that the Contractor transfers to others but shall not include Project Water transferred and
797 delivered to the Contractor.

798 (m) Rates under the respective ratesetting policies will be established to
799 recover only reimbursable O&M (including any deficits) costs of the Project, as those terms are
800 used in the then-existing Project ratesetting policies, and consistent with the SJRRSA, and
801 interest, where appropriate, except in instances where a minimum Rate is applicable in
802 accordance with the relevant Project ratesetting policy. Changes of significance in practices
803 which implement the Contracting Officer's ratesetting policies will not be implemented until the
804 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and
805 impact of the proposed change.

806 (n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
807 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
808 adjusted upward or downward to reflect the changed costs of delivery (if any) incurred by the
809 Contracting Officer in the delivery of the transferred Project Water to the transferee's point of
810 delivery in accordance with the then-existing Central Valley Project Ratesetting Policy.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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8. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and therefore shall have no further liability.

RECOVERED WATER ACCOUNT

9. (a) Notwithstanding any other provisions of this Contract, water delivered to the Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the Settlement and affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of \$10.00 per acre foot. Recovered Water Account water provided to the Contractor shall be administered at a priority for delivery lower than Class 2 Water and higher than Section 215 Water.

(b) The manner in which the Recovered Water Account will be administered will be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA, and Paragraph 16 of the Settlement.

SALES, TRANSFERS, AND EXCHANGES OF WATER

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

832 such Project Water sales, transfers, or exchanges shall be approved, where approval is required,
833 absent compliance with appropriate environmental documentation including but not limited to
834 the National Environmental Policy Act and the Endangered Species Act. Such environmental
835 documentation must include, as appropriate, an analysis of groundwater impacts and economic
836 and social effects, including environmental justice, of the proposed Project Water sales, transfers
837 and exchanges on both the transferor/exchanger and transferee/exchange recipient.

838 (b) In order to facilitate efficient water management by means of Project
839 Water sales, transfers, or exchanges of the type historically carried out among Project
840 Contractors located within the same geographical area and to allow the Contractor to participate
841 in an accelerated water transfer program, the Contracting Officer has prepared, as appropriate,
842 necessary environmental documentation including, but not limited to, the National
843 Environmental Policy Act and the Endangered Species Act analyzing annual Project Water sales,
844 transfers, or exchanges among Contractors within the same geographical area and the
845 Contracting Officer has determined that such Project Water sales, transfers, and exchanges
846 comply with applicable law.

847 (c) Project Water sales, transfers, and exchanges analyzed in the
848 environmental documentation referenced in subdivision (b) of this Article of this Contract, shall
849 be conducted with advance notice to the Contracting Officer and the Contracting Officer's
850 written acknowledgement of the transaction, but shall not require prior written approval by the
851 Contracting Officer.

852 (d) For Project Water sales, transfers, or exchanges to qualify under
853 subdivision (b) of this Article of this Contract such Project Water sale, transfer, or exchange
854 must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for
855 M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface
856 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to
857 established cropland, wildlife refuges, groundwater basins or municipal and industrial use;
858 (ii) occur within a single Year; (iii) occur between a willing seller and a willing buyer or willing
859 exchangers; (iv) convey water through existing facilities with no new construction or
860 modifications to facilities and be between existing Project Contractors and/or the Contractor and
861 the United States, Department of the Interior; and (v) comply with all applicable Federal, State,
862 and local or tribal laws and requirements imposed for protection of the environment and Indian
863 Trust Assets, as defined under Federal law.

864 (e) The environmental documentation and the Contracting Officer's
865 compliance determination for transactions described in subdivision (b) of this Article of this
866 Contract shall be reviewed every five (5) years and updated, as necessary, prior to the expiration
867 of the then-existing five (5) year period. All subsequent environmental documentation shall
868 include an alternative to evaluate not less than the quantity of Project Water historically sold,
869 transferred, or exchanged within the same geographical area.

870 (f) Consistent with Section 10010(e)(l) of the SJRRSA, any agreement
871 providing for sale, transfer, or exchange of Project Water that is not used for interim flows or
872 restoration flows pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy

873 the requirements of CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or
874 exchanges comply with sub-division (f)(1) and (f)(2) below.

875 (1) Project Water sales, transfers, and exchanges conducted under the
876 provisions of subdivision (f) of this Article of this Contract shall not require the Contracting
877 Officer's concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the
878 Contractor shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1)
879 year, provide ninety (90) days written advance notification to the Contracting Officer and
880 similarly thirty (30) days written advance notification of any Project Water sale, transfer, or
881 exchange with a term of less than one (1) year. The Contracting Officer shall promptly make
882 such notice publicly available.

883 (2) The Contractor's thirty (30) days or ninety (90) days advance
884 written notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain
885 how the proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or
886 mitigate impacts to Project Water deliveries caused by interim or restoration flows or is
887 otherwise intended to facilitate the Water Management Goal as described in the SJRRSA. The
888 Contracting Officer shall promptly make such notice publicly available.

889 (3) In addition, the Contracting Officer shall, at least annually, make
890 available publicly a compilation of the number of Project Water sales, transfers, and exchange
891 agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this
892 Contract.

893 (4) Project Water sold, transferred, or exchanged under an agreement
894 that meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be
895 counted as a replacement or an offset for purposes of determining reductions to Project Water
896 deliveries to any Friant Division Project Contractor except as provided in Paragraph 16(b) of the
897 Settlement.

898 (g) Upon complete payment of the Repayment Obligation by the Contractor,
899 and notwithstanding any Additional Capital Obligation that may later be established, in the case
900 of a sale or transfer of Irrigation Water to another Contractor which is otherwise subject to the
901 acreage limitations, reporting, and Full Cost pricing provisions of the RRA, such sold or
902 transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of
903 a sale or transfer of Irrigation Water to the Contractor from another Contractor which is subject
904 to RRA provisions, such RRA provisions shall apply to delivery of such water.

905 APPLICATION OF PAYMENTS AND ADJUSTMENTS

906 11. (a) The amount of any overpayment by the Contractor of the Contractor's
907 O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current
908 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
909 more than One Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu
910 of a refund, any amount of such overpayment, at the option of the Contractor, may be credited
911 against amounts to become due to the United States by the Contractor. With respect to
912 overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or
913 anyone having or claiming to have the right to the use of any of the Project Water supply

914 provided for herein. All credits and refunds of overpayments shall be made within thirty (30)
915 days of the Contracting Officer obtaining direction as to how to credit or refund such
916 overpayment in response to the notice to the Contractor that it has finalized the accounts for the
917 Year in which the overpayment was made.

918 (b) All advances for miscellaneous costs incurred for work requested by the
919 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs
920 when the work has been completed. If the advances exceed the actual costs incurred, the
921 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
922 advances, the Contractor will be billed for the additional costs pursuant to Article 26 of this
923 Contract.

924 TEMPORARY REDUCTIONS—RETURN FLOWS

925 12. (a) The Contracting Officer shall make all reasonable efforts to optimize
926 delivery of the Contract Total subject to: (i) the authorized purposes and priorities of the Project;
927 (ii) the requirements of Federal law and the Settlement; and (iii) the obligations of the United
928 States under existing contracts, or renewals thereof, providing for water deliveries from the
929 Project.

930 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
931 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for
932 the purposes of investigation, inspection, maintenance, repair, or replacement of any of the
933 Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor,
934 but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the

935 Contractor due notice in advance of such temporary discontinuance or reduction, except in case
936 of emergency, in which case no notice need be given; Provided, That the United States shall use
937 its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of
938 service after such reduction or discontinuance, and if requested by the Contractor, the United
939 States will, if possible, deliver the quantity of Project Water which would have been delivered
940 hereunder in the absence of such discontinuance or reduction.

941 (c) The United States reserves the right to all seepage and return flow water
942 derived from Water Delivered to the Contractor hereunder which escapes or is discharged
943 beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for
944 the United States any right as seepage or return flow to water being used pursuant to this
945 Contract for surface irrigation or underground storage either being put to reasonable and
946 beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or
947 those claiming by, through, or under the Contractor. For purposes of this subdivision,
948 groundwater recharge, groundwater banking and all similar groundwater activities will be
949 deemed to be underground storage.

950 CONSTRAINTS ON THE AVAILABILITY OF WATER

951 13. (a) In its operation of the Project, the Contracting Officer will use all
952 reasonable means to guard against a Condition of Shortage in the quantity of water to be made
953 available to the Contractor pursuant to this Contract. In the event the Contracting Officer
954 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
955 Contractor of said determination as soon as practicable.

956 (b) If there is a Condition of Shortage because of errors in physical operations
957 of the Project, drought, other physical causes beyond the control of the Contracting Officer or
958 actions taken by the Contracting Officer to meet legal obligations, including but not limited to
959 obligations pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of
960 this Contract, no liability shall accrue against the United States or any of its officers, agents, or
961 employees for any damage, direct or indirect, arising therefrom.

962 (c) The United States shall not execute contracts which together with this
963 Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000
964 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That,
965 subject to subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water
966 contracts shall not prohibit the United States from entering into temporary contracts of one year
967 or less in duration for delivery of Project Water to other entities if such water is not necessary to
968 meet the schedules as may be submitted by all Friant Division Project Contractors entitled to
969 receive Class 1 Water and/or Class 2 Water under their contracts. Nothing in this subdivision
970 shall limit the Contracting Officer's ability to take actions that result in the availability of new
971 water supplies to be used for Project purposes and allocating such new supplies; Provided, That
972 the Contracting Officer shall not take such actions until after consultation with the Friant
973 Division Project Contractors.

974 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to
975 this or any other contract heretofore or hereafter entered into any Year unless and until the
976 Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in

977 subdivision (c) of this Article of this Contract will be available for delivery in said Year. If the
978 Contracting Officer determines there is or will be a shortage in any Year in the quantity of
979 Class 1 Water available for delivery, the Contracting Officer shall apportion the available Class 1
980 Water among all Contractors entitled to receive such water that will be made available at Friant
981 Dam in accordance with the following:

982 (1) A determination shall be made of the total quantity of Class 1
983 Water at Friant Dam which is available for meeting Class 1 Water contractual commitments, the
984 amount so determined being herein referred to as the available supply.

985 (2) The total available Class 1 supply shall be divided by the Class 1
986 Water contractual commitments, the quotient thus obtained being herein referred to as the
987 Class 1 apportionment coefficient.

988 (3) The total quantity of Class 1 Water under Article 3 of this Contract
989 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of
990 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the
991 respective Year, but in no event shall such amount exceed the total quantity of Class 1 Water
992 specified in subdivision (a) of Article 3 of this Contract.

993 (e) If the Contracting Officer determines there is less than the quantity of
994 Class 2 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3
995 of this Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the
996 Contracting Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of

997 subdivision (d) of this Article of this Contract substituting the term “Class 2” for the term “Class
998 1.”

999 (f) In the event that in any Year there is made available to the Contractor, by
1000 reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article
1001 of this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of
1002 Article 12 of this Contract, less than the quantity of water which the Contractor otherwise would
1003 be entitled to receive hereunder, there shall be made an adjustment on account of the amounts
1004 already paid to the Contracting Officer by the Contractor for Class 1 Water and Class 2 Water
1005 for said Year in accordance with Article 11 of this Contract.

1006 UNAVOIDABLE GROUNDWATER PERCOLATION

1007 14. To the extent applicable, the Contractor shall not be deemed to have delivered
1008 Irrigation Water to Excess Lands and Ineligible Lands within the meaning of this Contract if
1009 such lands are irrigated with groundwater that reaches the underground strata as an unavoidable
1010 result of the delivery of Irrigation Water by the Contractor to Eligible Lands.

1011 ACREAGE LIMITATION

1012 15. (a) Notwithstanding the application of the acreage limitation provisions to
1013 activities referred to in subdivision (b) of this Article, subdivision (a) of Article 16, and Article
1014 18 of this Contract, upon complete payment of the Repayment Obligation by the Contractor, and
1015 notwithstanding any Additional Capital Obligation that may later be established, the provisions
1016 of section 213(a) and (b) of the RRA shall apply to lands in the Contractor’s Service Area, with
1017 the effect that acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall

1018 no longer apply to lands in the Contractor's Service Area with respect to Water Delivered
1019 pursuant to this Contract. Upon receiving the complete payment of the Repayment Obligation
1020 from the Contractor, Reclamation will conduct a final water district review for the purpose of
1021 determining compliance with the acreage limitations, reporting, and Full Cost pricing provisions
1022 of the RRA from the date of the last water district review until the date when payment to
1023 Reclamation of the Repayment Obligation is completed.

1024 (b) Project Water to which the Contractor is entitled through a separate
1025 contract, other than this Contract, that is subject to Federal Reclamation law, may be delivered to
1026 lands within the Contractor's Service Area. Upon complete payment of the Repayment
1027 Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may
1028 later be established, Project Water Delivered under this Contract may be mixed with Project
1029 Water Delivered pursuant to a contract with the United States, other than this Contract, to which
1030 acreage limitations, reporting, and the Full Cost pricing provisions of Federal Reclamation law
1031 apply without causing the application of the acreage limitations, reporting, and Full Cost pricing
1032 provisions of Federal Reclamation law to the Water Delivered pursuant to this Contract;
1033 Provided, The terms and conditions in such other contract shall continue to apply, and if such
1034 terms and conditions so require, the lands to receive Project Water under such other contract
1035 shall be properly designated by the Contractor and such Project Water is to be delivered in
1036 accordance with the RRA including any applicable acreage limitations, reporting, and Full Cost
1037 pricing provisions.

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COMPLIANCE WITH FEDERAL RECLAMATION LAWS

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16. (a) The parties agree that the delivery of irrigation water or use of Federal facilities pursuant to this Contract is subject to Federal Reclamation law, including but not limited to the Reclamation Reform Act of 1982 (43 U.S.C. 390 aa *et seq.*), as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

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(b) The terms of this Contract are subject to the Settlement and the SJRRSA.

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Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of

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the Settlement and the SJRRSA.

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PROTECTION OF WATER AND AIR QUALITY

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17. (a) Project facilities used to make available and deliver water to the Contractor shall be operated and maintained in the most practical manner to maintain the quality of the water at the highest level possible as determined by the Contracting Officer: *Provided, That* the United States does not warrant the quality of the water delivered to the Contractor and is under no obligation to furnish or construct water treatment facilities to maintain or improve the quality of water delivered to the Contractor.

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

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(c) This article shall not affect or alter any legal obligations of the Secretary to provide drainage or other discharge services.

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WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

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18. (a) Until complete payment of the Repayment Obligation by the Contractor, and notwithstanding any Additional Capital Obligation that may later be established, water or water rights now owned or hereafter acquired by the Contractor other than from the United

1068 States and Irrigation Water furnished pursuant to the terms of this Contract may be
1069 simultaneously transported through the same distribution facilities of the Contractor subject to
1070 the following: (i) if the facilities utilized for commingling Irrigation Water and non-project
1071 water were constructed without funds made available pursuant to Federal Reclamation law, the
1072 acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law will
1073 be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility
1074 of land to receive Irrigation Water must be established through the certification requirements as
1075 specified in the Acreage Limitation Rules and Regulations (43 CFR Part 426); and (iii) the water
1076 requirements of Eligible Lands within the Contractor's Service Area can be established and the
1077 quantity of Irrigation Water to be utilized is less than or equal to the quantity necessary to
1078 irrigate such Eligible Lands. The Contractor and the Contracting Officer concur that the
1079 Contractor's distribution system was constructed without funds made available pursuant to
1080 Federal Reclamation law. The use of this distribution system is not subject to the provisions of
1081 this subdivision of this Article.

1082 (b) Upon complete payment of the Repayment Obligation by the Contractor,
1083 and notwithstanding any Additional Capital Obligation that may later be established, water or
1084 water rights now owned or hereafter acquired by the Contractor other than from the United
1085 States pursuant to this Contract and Irrigation Water furnished pursuant to the terms of this
1086 Contract may be simultaneously transported through the same distribution facilities of the
1087 Contractor without the payment of fees to the United States and without application of Federal

1088 Reclamation law to Water Delivered pursuant to this Contract or to lands which receive Water
1089 Delivered to Contractor pursuant to this Contract.

1090 (c) Water or water rights now owned or hereafter acquired by the Contractor,
1091 other than from the United States or adverse to the Project or its contractors (i.e., non-project
1092 water), may be stored, conveyed and/or diverted through Project facilities, other than Friant
1093 Division Facilities, subject to the completion of appropriate environmental documentation, with
1094 the approval of the Contracting Officer and the execution of any contract determined by the
1095 Contracting Officer to be necessary, consistent with the following provisions:

1096 (1) The Contractor may introduce non-project water into Project
1097 facilities and deliver said water to lands within the Contractor's Service Area, including
1098 Ineligible Lands, subject to payment to the United States and/or to any applicable Operating
1099 Non-Federal Entity of an appropriate rate as determined by the Contracting Officer. In addition,
1100 if electrical power is required to pump non-project water, the Contractor shall be responsible for
1101 obtaining the necessary power and paying the necessary charges therefor.

1102 (2) Delivery of such non-project water in and through Project facilities
1103 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project
1104 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water
1105 available to other Project Contractors; (iii) interfere with the delivery of contractual water
1106 entitlements to any other Project Contractors; (iv) interfere with the physical maintenance of the
1107 Project facilities; or (v) result in the United States incurring any liability or unreimbursed costs
1108 or expenses thereby.

1109 (3) Neither the United States nor the Operating Non-Federal Entity
1110 shall be responsible for control, care or distribution of the non-project water before it is
1111 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases
1112 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and
1113 their respective officers, agents, and employees, from any claim for damage to persons or
1114 property, direct or indirect, resulting from Contractor's diversion or extraction of non-project
1115 water from any source.

1116 (4) Diversion of such non-project water into Project facilities shall be
1117 consistent with all applicable laws, and if involving groundwater, consistent with any
1118 groundwater management plan for the area from which it was extracted.

1119 (5) After Project purposes are met, as determined by the Contracting
1120 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity
1121 of the facilities declared to be available by the Contracting Officer for conveyance and
1122 transportation of non-project water prior to any such remaining capacity being made available to
1123 non-project contractors.

1124 (d) Non-project water may be stored, conveyed and/or diverted through Friant
1125 Division Facilities, subject to the completion of appropriate environmental documentation and
1126 approval of the Contracting Officer without execution of a separate contract, consistent with
1127 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be
1128 appropriate by the Contracting Officer.

OPINIONS AND DETERMINATIONS

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1130 19. (a) Where the terms of this Contract provide for actions to be based upon the
1131 opinion or determination of either party to this Contract, said terms shall not be construed as
1132 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
1133 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
1134 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,
1135 or unreasonable opinion or determination. Each opinion or determination by either party shall be
1136 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect
1137 or alter the standard of judicial review applicable under Federal law to any opinion or
1138 determination implementing a specific provision of Federal law embodied in statute or
1139 regulation.

1140 (b) The Contracting Officer shall have the right to make determinations
1141 necessary to administer this Contract that are consistent with the provisions of this Contract, the
1142 laws of the United States and the State of California, and the rules and regulations promulgated
1143 by the Secretary. Such determinations shall be made in consultation with the Contractor to the
1144 extent reasonably practicable.

COORDINATION AND COOPERATION

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1146 20. (a) In order to further their mutual goals and objectives, the Contracting
1147 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
1148 with other affected Project Contractors, in order to improve the operation and management of the
1149 Project. The communication, coordination, and cooperation regarding operations and

1150 management shall include, but not limited to, any action which will or may materially affect the
1151 quantity or quality of Project Water supply, the allocation of Project Water supply, and Project
1152 financial matters including, but not limited to, budget issues. The communication, coordination,
1153 and cooperation provided for hereunder shall extend to all provisions of this Contract. Each
1154 party shall retain exclusive decision making authority for all actions, opinions, and
1155 determinations to be made by the respective party.

1156 (b) It is the intent of the Secretary to improve water supply reliability. To
1157 carry out this intent:

1158 (1) The Contracting Officer will, at the request of the Contractor,
1159 assist in the development of integrated resource management plans for the Contractor. Further,
1160 the Contracting Officer will, as appropriate, seek authorizations for implementation of
1161 partnerships to improve water supply, water quality, and reliability.

1162 (2) The Secretary will, as appropriate, pursue program and project
1163 implementation and authorization in coordination with Project Contractors to improve the water
1164 supply, water quality, and reliability of the Project for all Project purposes.

1165 (3) The Secretary will coordinate with Project Contractors and the
1166 State of California to seek improved water resource management.

1167 (4) The Secretary will coordinate actions of agencies within the
1168 Department of the Interior that may impact the availability of water for Project purposes.

1169 (5) The Contracting Officer shall periodically, but not less than
1170 annually, hold division level meetings to discuss Project operations, division level water
1171 management activities, and other issues as appropriate.

1172 (c) Without limiting the contractual obligations of the Contracting Officer
1173 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting
1174 Officer's ability to communicate, coordinate, and cooperate with the Contractor or other
1175 interested stakeholders or to make decisions in a timely fashion as needed to protect health,
1176 safety, physical integrity of structures or facilities, or the Contracting Officer's ability to comply
1177 with applicable laws.

1178 CHARGES FOR DELINQUENT PAYMENTS

1179 21. (a) The Contractor shall be subject to interest, administrative and penalty
1180 charges on delinquent installments or payments. When a payment is not received by the due
1181 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
1182 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an
1183 administrative charge to cover additional costs of billing and processing the delinquent payment.
1184 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional
1185 penalty charge of six (6) percent per year for each day the payment is delinquent beyond the due
1186 date. Further, the Contractor shall pay any fees incurred for debt collection services associated
1187 with a delinquent payment.

1188 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
1189 in the Federal Register by the Department of the Treasury for application to overdue payments,
1190 or the interest rate of one-half of one (0.5) percent per month prescribed by Section 6 of the
1191 Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be
1192 determined as of the due date and remain fixed for the duration of the delinquent period.

1193 (c) When a partial payment on a delinquent account is received, the amount
1194 received shall be applied, first to the penalty, second to the administrative charges, third to the
1195 accrued interest, and finally to the overdue payment.

EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

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

(d) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in

1230 Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and
1231 remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule,
1232 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1233 (g) The Contractor will include the provisions of paragraphs (1) through (7) in
1234 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1235 Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24,
1236 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor
1237 will take such action with respect to any subcontract or purchase order as may be directed by the
1238 Secretary of Labor as a means of enforcing such provisions, including sanctions for
1239 noncompliance: *Provided, however*, that in the event the Contractor becomes involved in, or is
1240 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
1241 Contractor may request the United States to enter into such litigation to protect the interests of
1242 the United States.

1243 GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

1244 23. (a) The obligation of the Contractor to pay the United States as provided in
1245 this Contract is a general obligation of the Contractor notwithstanding the manner in which the
1246 obligation may be distributed among the Contractor's water users and notwithstanding the
1247 default of individual water users in their obligations to the Contractor.

1248 (b) The payment of charges becoming due hereunder is a condition precedent
1249 to receiving benefits under this Contract. The United States shall not make water available to the
1250 Contractor through Project facilities during any period in which the Contractor may be in arrears
1251 in the advance payment of water rates due the United States. The Contractor shall not furnish
1252 water made available pursuant to this Contract for lands or parties which are in arrears in the
1253 advance payment of water rates levied or established by the Contractor.

1254 (c) With respect to subdivision (b) of this Article of this Contract, the
1255 Contractor shall have no obligation to require advance payment for water rates which it levies.

1256 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1257 24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
1258 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
1259 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
1260 laws, as well as with their respective implementing regulations and guidelines imposed by the
1261 U.S. Department of the Interior and/or Bureau of Reclamation.

1262 (b) These statutes require that no person in the United States shall, on the
1263 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
1264 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
1265 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the
1266 Contractor agrees to immediately take any measures necessary to implement this obligation,
1267 including permitting officials of the United States to inspect premises, programs, and documents.

1268 (c) The Contractor makes this agreement in consideration of and for the
1269 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
1270 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
1271 Reclamation, including installment payments after such date on account of arrangements for
1272 Federal financial assistance which were approved before such date. The Contractor recognizes
1273 and agrees that such Federal assistance will be extended in reliance on the representations and
1274 agreements made in this Article, and that the United States reserves the right to seek judicial
1275 enforcement thereof.

1276 PRIVACY ACT COMPLIANCE

1277 25. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)
1278 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et
1279 seq.) in maintaining Landholder acreage certification and reporting records, required to be
1280 submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation
1281 Reform Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

1282 (b) With respect to the application and administration of the criminal penalty
1283 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees
1284 responsible for maintaining the certification and reporting records referenced in (a) above are
1285 considered to be employees of the Department of the Interior. See 5 U.S.C. 552a(m).

1286 (c) The Contracting Officer or a designated representative shall provide the
1287 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau
1288 of Reclamation Federal Register Privacy Act System of Records Notice (Acreage
1289 Limitation—Interior, Reclamation-31) which govern the maintenance, safeguarding, and
1290 disclosure of information contained in the Landholder's certification and reporting records.

1291 (d) The Contracting Officer shall designate a full-time employee of the
1292 Bureau of Reclamation to be the System Manager who shall be responsible for making decisions
1293 on denials pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The
1294 Contractor is authorized to grant requests by individuals for access to their own records.

1295 (e) The Contractor shall forward promptly to the System Manager each
1296 proposed denial of access under 43 CFR 2.64; and each request for amendment of records filed
1297 under 43 CFR 2.71; notify the requester accordingly of such referral; and provide the System
1298 Manager with information and records necessary to prepare an appropriate response to the
1299 requester. These requirements do not apply to individuals seeking access to their own
1300 certification and reporting forms filed with the Contractor pursuant to 43 CFR 426.18, unless the
1301 requester elects to cite the Privacy Act as a basis for the request.

1302 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1303 26. In addition to all other payments to be made by the Contractor pursuant to this
1304 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a
1305 bill and detailed statement submitted by the Contracting Officer to the Contractor for such
1306 specific items of direct cost incurred by the United States for work requested by the Contractor
1307 associated with this Contract plus indirect costs in accordance with applicable Bureau of
1308 Reclamation policies and procedures. All such amounts referred to in this Article of this
1309 Contract shall not exceed the amount agreed to in writing in advance by the Contractor. This
1310 Article of this Contract shall not apply to costs for routine contract administration.

1311 WATER CONSERVATION

1312 27. (a) Prior to the delivery of water provided from or conveyed through
1313 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
1314 shall be implementing an effective water conservation and efficiency program based on the
1315 Contractor's water conservation plan that has been determined by the Contracting Officer to
1316 meet the conservation and efficiency criteria for evaluating water conservation plans established
1317 under Federal law. The water conservation and efficiency program shall contain definite water
1318 conservation objectives, appropriate economically feasible water conservation measures, and

1319 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
1320 Contract shall be contingent upon the Contractor's continued implementation of such water
1321 conservation program. In the event the Contractor's water conservation plan or any revised
1322 water conservation plan completed pursuant to subdivision (d) of this Article of this Contract
1323 have not yet been determined by the Contracting Officer to meet such criteria, due to
1324 circumstances which the Contracting Officer determines are beyond the control of the
1325 Contractor, water deliveries shall be made under this Contract so long as the Contractor
1326 diligently works with the Contracting Officer to obtain such determination at the earliest
1327 practicable date, and thereafter the Contractor immediately begins implementing its water
1328 conservation and efficiency program in accordance with the time schedules therein.

1329 (b) Should the amount of M&I Water Delivered pursuant to subdivision (a) of
1330 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the
1331 Contractor shall implement the Best Management Practices identified by the time frames issued
1332 by the California Urban Water Conservation Council for such M&I Water unless any such
1333 practice is determined by the Contracting Officer to be inappropriate for the Contractor.

1334 (c) The Contractor shall submit to the Contracting Officer a report on the
1335 status of its implementation of the water conservation plan on the reporting dates specified in the
1336 then-existing conservation and efficiency criteria established under Federal law.

1337 (d) At five (5) -year intervals, the Contractor shall revise its water
1338 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating
1339 water conservation plans established under Federal law and submit such revised water

1340 management plan to the Contracting Officer for review and evaluation. The Contracting Officer
1341 will then determine if the water conservation plan meets Reclamation's then-existing
1342 conservation and efficiency criteria for evaluating water conservation plans established under
1343 Federal law.

1344 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1345 shall be described in the Contractor's water conservation plan.

1346 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1347 28. Except as specifically provided in Article 18 of this Contract, the provisions of
1348 this Contract shall not be applicable to or affect non-project Water or water rights now owned or
1349 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1350 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1351 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or
1352 any water user within the Contractor's Service Area acquires or has available under any other
1353 contract pursuant to Federal Reclamation law.

1354 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1355 29. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1356 and responsibility for funding a portion of the costs of such O&M, have been transferred to the
1357 Operating Non-Federal Entity by separate agreement between the United States and the
1358 Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the
1359 rights or obligations of the Contractor or the United States hereunder.

1360 (b) The Contracting Officer has previously notified the Contractor in writing
1361 that the O&M of a portion of the Project facilities which serve the Contractor has been
1362 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly
1363 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer
1364 under the terms and conditions of the separate agreement between the United States and the
1365 Operating Non-Federal Entity described in subdivision (a) of this Article of this Contract, all
1366 rates, charges or assessments of any kind, including any assessment for reserve funds, which the
1367 Operating Non-Federal Entity or such successor determines, sets or establishes for (i) the O&M
1368 of the portion of the Project facilities operated and maintained by the Operating Non-Federal
1369 Entity or such successor, or (ii) the Friant Division's share of the operation, maintenance and
1370 replacement costs for physical works and appurtenances associated with the Tracy Pumping
1371 Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal share of the
1372 O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use conveyance
1373 and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity
1374 or such successor shall not relieve the Contractor of its obligation to pay directly to the United
1375 States the Contractor's share of the Project Rates, Charges, and Tiered Pricing Components
1376 except to the extent the Operating Non-Federal Entity collects payments on behalf of the United
1377 States in accordance with the separate agreement identified in subdivision (a) of this Article of
1378 this Contract.

1379 (c) For so long as the O&M of any portion of the Project facilities serving the
1380 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the

1381 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1382 Contract representing the cost associated with the activity being performed by the Operating
1383 Non-Federal Entity or its successor.

1384 (d) In the event the O&M of the Project facilities operated and maintained by
1385 the Operating Non-Federal Entity is re-assumed by the United States during the term of this
1386 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the
1387 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1388 Contractor for Project Water under this Contract representing the O&M costs of the portion of
1389 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the
1390 absence of written notification from the Contracting Officer to the contrary, pay the Rates,
1391 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the
1392 United States in compliance with Article 7 of this Contract.

1393 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1394 30. The expenditure or advance of any money or the performance of any obligation of
1395 the United States under this Contract shall be contingent upon appropriation or allotment of
1396 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1397 obligations under this Contract. No liability shall accrue to the United States in case funds are
1398 not appropriated or allotted.

1399 BOOKS, RECORDS, AND REPORTS

1400 31. (a) The Contractor shall establish and maintain accounts and other books and
1401 records pertaining to administration of the terms and conditions of this Contract, including: the
1402 Contractor's financial transactions, water supply data, and Project land and right-of-way
1403 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1404 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1405 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1406 Officer may require. Subject to applicable Federal laws and regulations, each party to this

1407 Contract shall have the right during office hours to examine and make copies of the other party's
1408 books and records relating to matters covered by this Contract.

1409 (b) Notwithstanding the provisions of subdivision (a) of this Article of this
1410 Contract, no books, records, or other information shall be requested from the Contractor by the
1411 Contracting Officer unless such books, records, or information are reasonably related to the
1412 administration or performance of this Contract. Any such request shall allow the Contractor a
1413 reasonable period of time within which to provide the requested books, records, or information.

1414 (c) At such time as the Contractor provides information to the Contracting
1415 Officer pursuant to subdivision (a) of this Article of this Contract, a copy of such information
1416 shall be provided to the Operating Non-Federal Entity.

1417 ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

1418 32. (a) The provisions of this Contract shall apply to and bind the successors and
1419 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1420 therein shall be valid until approved in writing by the Contracting Officer.

1421 (b) The assignment of any right or interest in this Contract by either party
1422 shall not interfere with the rights or obligations of the other party to this Contract absent the
1423 written concurrence of said other party.

1424 (c) The Contracting Officer shall not unreasonably condition or withhold
1425 approval of any proposed assignment.

1426 SEVERABILITY

1427 33. In the event that a person or entity who is neither (i) a party to a Project contract,
1428 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor

1429 (iii) an association or other form of organization whose primary function is to represent parties to
1430 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1431 enforceability of a provision included in this Contract and said person, entity, association, or
1432 organization obtains a final court decision holding that such provision is legally invalid or
1433 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1434 the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of
1435 such final court decision identify by mutual agreement the provisions in this Contract which
1436 must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate
1437 revision(s). The time periods specified above may be extended by mutual agreement of the
1438 parties. Pending the completion of the actions designated above, to the extent it can do so
1439 without violating any applicable provisions of law, the United States shall continue to make the
1440 quantities of Project Water specified in this Contract available to the Contractor pursuant to the
1441 provisions of this Contract which were not found to be legally invalid or unenforceable in the
1442 final court decision.

1443 RESOLUTION OF DISPUTES

1444 34. Should any dispute arise concerning any provisions of this Contract, or the
1445 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1446 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1447 Officer referring any matter to Department of Justice, the party shall provide to the other party
1448 thirty (30) days written notice of the intent to take such action; Provided, That such notice shall
1449 not be required where a delay in commencing an action would prejudice the interests of the party

1450 that intends to file suit. During the thirty (30) day notice period, the Contractor and the
1451 Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as
1452 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the
1453 Contractor or the United States may have.

1454 OFFICIALS NOT TO BENEFIT

1455 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1456 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1457 manner as other water users or landowners.

1458 CHANGES IN CONTRACTOR'S SERVICE AREA

1459 36. (a) While this Contract is in effect, no change may be made in the
1460 Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution,
1461 consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

1462 (b) Within thirty (30) days of receipt of a request for such a change, the
1463 Contracting Officer will notify the Contractor of any additional information required by the
1464 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1465 agreeable schedule for timely completion of the process. Such process will analyze whether the
1466 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1467 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1468 Contract or to pay for any Federally-constructed facilities for which the Contractor is
1469 responsible; and (iii) have an impact on any Project Water rights applications, permits, or
1470 licenses. In addition, the Contracting Officer shall comply with the National Environmental
1471 Policy Act and the Endangered Species Act. The Contractor will be responsible for all costs

1472 incurred by the Contracting Officer in this process, and such costs will be paid in accordance
1473 with Article 26 of this Contract.

1474 FEDERAL LAWS

1475 37. By entering into this Contract, the Contractor does not waive its rights to contest
1476 the validity or application in connection with the performance of the terms and conditions of this
1477 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1478 the terms and conditions of this Contract unless and until relief from application of such Federal
1479 law or regulation to the implementing provision of the Contract is granted by a court of
1480 competent jurisdiction.

1481 EMERGENCY RESERVE FUND

1482 38. The Contractor and Contracting Officer acknowledge that the requirements to
1483 establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of
1484 Friant Division Facilities is and will continue to be administered under Contract No.
1485 8-07-20-X0356 titled Agreement To Transfer The Operation, Maintenance And Replacement
1486 And Certain Financial And Administrative Activities Related To The Friant-Kern Canal And
1487 Associated Works, dated March 1, 1998 as amended, supplemented, assigned, or renewed.

1488 MEDIUM FOR TRANSMITTING PAYMENT

1489 39. (a) All payments from the Contractor to the United States under this contract
1490 shall be by the medium requested by the United States on or before the date payment is due. The
1491 required method of payment may include checks, wire transfers, or other types of payment
1492 specified by the United States.

1493 (b) Upon execution of the contract, the Contractor shall furnish the
1494 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose

1495 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising
1496 out of the Contractor's relationship with the United States.

1497 NOTICES

1498 40. Any notice, demand, or request authorized or required by this Contract shall be
1499 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1500 delivered to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno,
1501 California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered
1502 to the Board of Directors of Tulare Irrigation District, 6826 Avenue 240, Tulare, California
1503 93274. The designation of the addressee or the address may be changed by notice given in the
1504 same manner as provided in this Article of this Contract for other notices.

1505 CONFIRMATION OF CONTRACT

1506 41. The Contractor, after the execution of this Contract, shall promptly provide to the
1507 Contracting Officer a decree of a court of competent jurisdiction of the State of California,
1508 confirming the execution of this Contract. The Contractor shall furnish the United States a
1509 certified copy of the final decree, the validation proceedings, and all pertinent supporting records
1510 of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful,
1511 valid, and binding on the Contractor.

1512 CONTRACT DRAFTING CONSIDERATIONS

1513 42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20,
1514 subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31,
1515 subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and
1516 Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the
1517 parties hereto, each of whom is sophisticated in the matters to which this Contract pertains, and
1518 no one party shall be considered to have drafted the stated Articles.

1519 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day
1520 and year first above written.

THE UNITED STATES OF AMERICA

APPROVED AS TO LEGAL
FORM AND SUFFICIENCY
James E. [Signature]
OFFICE OF REGIONAL SOLICITOR
DEPARTMENT OF THE INTERIOR

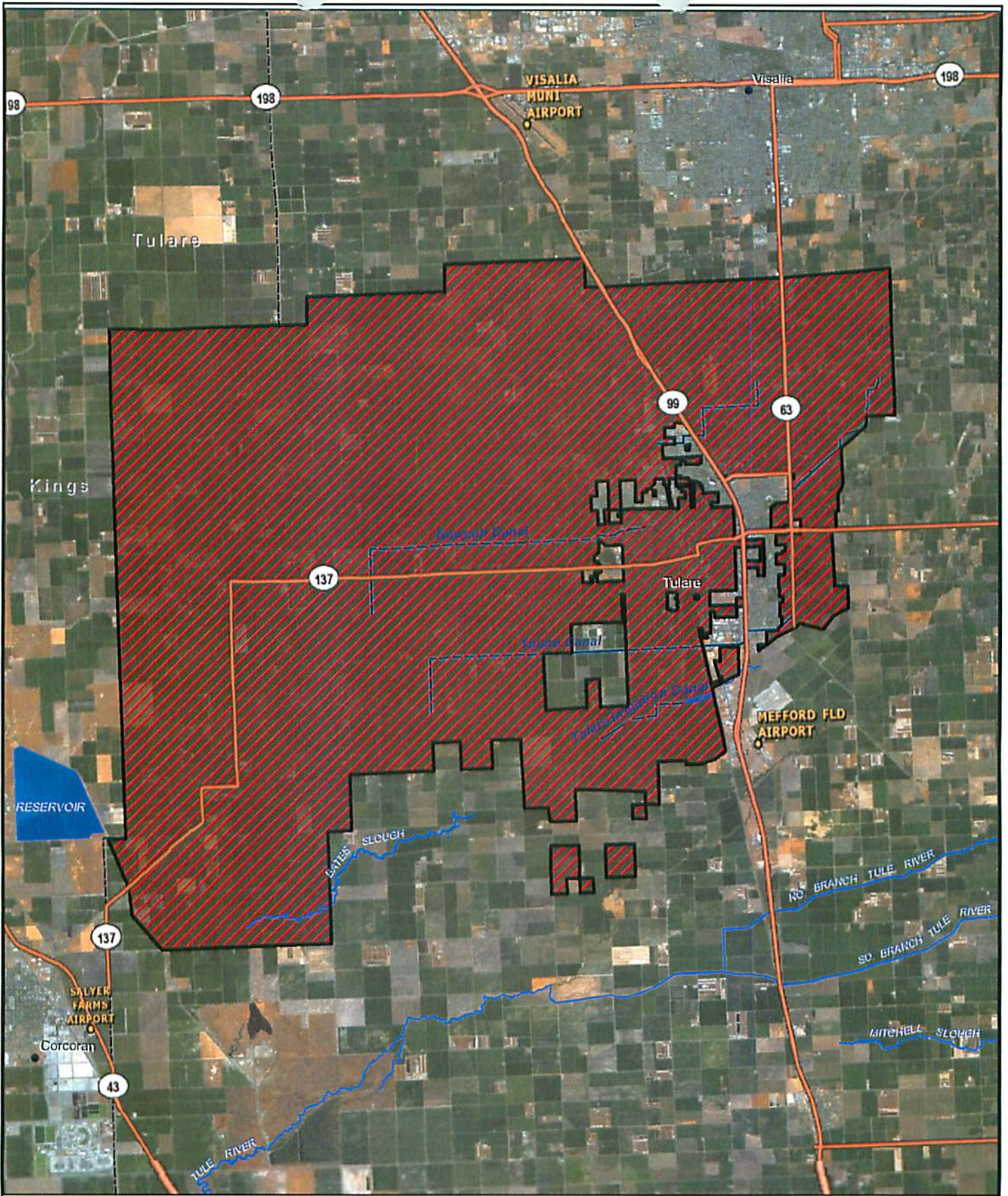
By: *Donald R. [Signature]*
Regional Director, Mid-Pacific Region
Bureau of Reclamation

TULARE IRRIGATION DISTRICT

By: *David S. [Signature]*
President, Board of Directors

Attest:

By: *J. Paul [Signature]*
Secretary



-  District Boundary
-  Contractor's Service Area (Irrigation Only)
-  Contractor's Service Area (Irrigation and M&I)

Tulare Irrigation District

Contract No. 175r-2485D

Exhibit A

Friant 9 (d) Repayment

Date: September 2, 2010
 File Name: N:\Districts\Contracts\Friant_9(d)\Contracts\Tulare.mxd



1785-202-79

EXHIBIT B

Rates and Charges

This is a placeholder page. The Rates and Charges will be transmitted to the Contractor at a later date.

Exhibit C-1
 Repayment Obligation - Lump Sum Option

Friant Contractor:

Tulare ID

San Joaquin River Restoration Act

Existing Capital Obligation (Article 1(m)) \$ **12,321,237.29**

Irrigation portion of Existing Capital Obligation \$ **12,321,237.29**

20yr CMT as of : **10/01/10** **3.400%**

Discount Rate (1/2 20yr CMT) **1.700%**

Discounted Irrigation Capital \$ **10,371,320.73**

Non-Discounted M&I Portion of Existing Capital Obligation

\$ **-**

Repayment Obligation - Lump Sum Option (per Article 7(a)(2)(A)) \$ **10,371,320.73**

Year	Irrigation Portion of Allocated Capital Cost	
	Beginning Balance	Straight Line Repayment
	2011	\$ 12,321,237
2012	\$ 11,705,175	\$ 616,062
2013	\$ 11,089,114	\$ 616,062
2014	\$ 10,473,052	\$ 616,062
2015	\$ 9,856,990	\$ 616,062
2016	\$ 9,240,928	\$ 616,062
2017	\$ 8,624,866	\$ 616,062
2018	\$ 8,008,804	\$ 616,062
2019	\$ 7,392,742	\$ 616,062
2020	\$ 6,776,681	\$ 616,062
2021	\$ 6,160,619	\$ 616,062
2022	\$ 5,544,557	\$ 616,062
2023	\$ 4,928,495	\$ 616,062
2024	\$ 4,312,433	\$ 616,062
2025	\$ 3,696,371	\$ 616,062
2026	\$ 3,080,309	\$ 616,062
2027	\$ 2,464,247	\$ 616,062
2028	\$ 1,848,186	\$ 616,062
2029	\$ 1,232,124	\$ 616,062
2030	\$ 616,062	\$ 616,062
		\$ 12,321,237

Exhibit C-2
 Repayment Obligation - Installment Payment Option

Tulare ID

Grant Contractor:

Existing Capital Obligation (Article 1(m)) \$ 12,321,237.29

Irrigation Portion of Existing Capital Obligation \$ 12,321,237.29

20yr CMT - 10/1/2010 3.400%
 Discount Rate (1/1/20yr CMT) 1.700%

Non-Discounted M&I Existing Capital Obligation \$

Installment Schedule		Non-Discounted M&I Portion of Existing Capital Obligation	Repayment Obligation
Payment Due Date	Irrigation Portion of Repayment Obligation		
1st Installment 5/1/2011	\$ 2,656,530.82	\$ -	\$ 2,656,530.82
2nd Installment 5/1/2012	\$ 2,656,129.50	\$ -	\$ 2,656,129.50
3rd Installment 5/1/2013	\$ 2,658,856.87	\$ -	\$ 2,658,856.87
4th Installment 1/31/2014	\$ 2,663,707.87	\$ -	\$ 2,663,707.87
Total Repayment Obligation - Installment Option (per Article 7(a)(2)(A))		\$ 10,635,225.05	\$ 10,635,225.05

Year	Irrigation Portion of Allocated Capital Cost		Straight Line Repayment	Discounted Capital Amount
	Beginning Balance	End of Year Balance		
2011	\$ 12,321,237	\$ 616,062	\$ 616,062	\$ 2,656,129.50
2012	\$ 11,705,175	\$ 616,062	\$ 616,062	\$ 486,689
2013	\$ 11,089,114	\$ 616,062	\$ 616,062	\$ 143,850
2014	\$ 10,473,052	\$ 616,062	\$ 616,062	\$ 143,850
2015	\$ 9,856,990	\$ 616,062	\$ 616,062	\$ 143,850
2016	\$ 9,240,928	\$ 616,062	\$ 616,062	\$ 143,850
2017	\$ 8,624,866	\$ 616,062	\$ 616,062	\$ 143,850
2018	\$ 8,008,804	\$ 616,062	\$ 616,062	\$ 143,850
2019	\$ 7,392,742	\$ 616,062	\$ 616,062	\$ 143,850
2020	\$ 6,776,681	\$ 616,062	\$ 616,062	\$ 143,850
2021	\$ 6,160,619	\$ 616,062	\$ 616,062	\$ 143,850
2022	\$ 5,544,557	\$ 616,062	\$ 616,062	\$ 143,850
2023	\$ 4,928,495	\$ 616,062	\$ 616,062	\$ 143,850
2024	\$ 4,312,433	\$ 616,062	\$ 616,062	\$ 143,850
2025	\$ 3,696,371	\$ 616,062	\$ 616,062	\$ 143,850
2026	\$ 3,080,309	\$ 616,062	\$ 616,062	\$ 143,850
2027	\$ 2,464,247	\$ 616,062	\$ 616,062	\$ 143,850
2028	\$ 1,848,186	\$ 616,062	\$ 616,062	\$ 143,850
2029	\$ 1,232,124	\$ 616,062	\$ 616,062	\$ 143,850
2030	\$ 616,062	\$ 616,062	\$ 616,062	\$ 143,850
	\$ 12,321,237	\$ 3,074,149	\$ 3,075,997	\$ 3,081,541
				\$ 3,089,550

Exhibit D
Friant Surcharge Reduction Calculation

Friant Contractor:
San Joaquin River Restoration Act

Tulare ID

Average Annual Delivery - Forecasted for 2020-2039*	45,240
Total Projected deliveries (over 20 yr period)**	
Article 7(c)	904,800
20 yr CMT as of 10/1/2010	3.400%
1/2 20 yr CMT as of 10/1/2010	1.700%
Irrigation Portion of Existing Capital Obligation	\$12,321,237
NPV at Half CMT (Repayment Obligation)	\$10,371,321
NPV at Full CMT	\$8,835,477
Financing Cost Offset: [Ⓢ] (Article 7(c)(1))	\$1,535,843
NPV of FS Reduction	\$1,440,671
Difference between Financing Cost Offset and NPV of FS Reduction	\$95,173
2020 Other Obligation Credit (FV of difference) (Art. 7(c)(2))^{***}	\$128,587

Year	Irrigation portion of Allocated Capital Cost		CVPIA Friant	Reduction in Friant Surcharge			
	Beginning Balance	Straight Line Repayment	Surcharges	Friant Surcharge Reduction per Article c)(1)	Friant Surcharge due per A/F after Reduction	Projected Total Annual Credit	2020 Other Obligation Credit Calculation (Art. 7(c)(2))
2011	\$ 12,321,237	\$ 616,062	\$7.00		\$7.00	0 \$	\$ 95,172.90
2012	\$ 11,705,175	\$ 616,062	\$7.00		\$7.00	0 \$	\$ 98,408.78
2013	\$ 11,089,114	\$ 616,062	\$7.00		\$7.00	0 \$	\$ 101,754.67
2014	\$ 10,473,052	\$ 616,062	\$7.00		\$7.00	0 \$	\$ 105,214.33
2015	\$ 9,856,990	\$ 616,062	\$7.00		\$7.00	0 \$	\$ 108,791.62
2016	\$ 9,240,928	\$ 616,062	\$7.00		\$7.00	0 \$	\$ 112,490.54
2017	\$ 8,624,866	\$ 616,062	\$7.00		\$7.00	0 \$	\$ 116,315.21
2018	\$ 8,008,804	\$ 616,062	\$7.00		\$7.00	0 \$	\$ 120,269.93
2019	\$ 7,392,742	\$ 616,062	\$7.00		\$7.00	0 \$	\$ 124,359.11
2020	\$ 6,776,681	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(\$135,720)	\$ 128,587.32
2021	\$ 6,160,619	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2022	\$ 5,544,557	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2023	\$ 4,928,495	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2024	\$ 4,312,433	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2025	\$ 3,696,371	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2026	\$ 3,080,309	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2027	\$ 2,464,247	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2028	\$ 1,848,186	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2029	\$ 1,232,124	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2030	\$ 616,062	\$ 616,062	\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2031			\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2032			\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2033			\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2034			\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2035			\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2036			\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2037			\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2038			\$7.00	(\$3.00)	\$ 4.00	(135,720)	
2039			\$7.00	(\$3.00)	\$ 4.00	(135,720)	
	\$ 12,321,237					(\$2,714,400)	

Exhibit D
Friant Surcharge Reduction Calculation

Footnotes

* Average annual delivery forecast indicated above is a mutually agreed upon estimate of deliveries during the period 2020-2039 for purposes of calculating the Friant Surcharge reduction and related credits only.

** This figure represents the total cumulative deliveries the reduced surcharge is applicable to, but not beyond 2039. If cumulative actual deliveries exceed this amount prior to 2039, the full Friant Surcharge is applicable to deliveries in excess of this amount.

*** The difference represents the amount of financing costs that are not offset through the reduced Friant Surcharge computed on this schedule. Pursuant to Section 7(c)(2), this amount shall offset the Contractor's other outstanding or future obligations. After 2020, the contractor's other obligations shall be reduced in the following order to fully offset this amount: 1) Payments or prepayments due for O&M expenses and, to the extent applicable, 2) Additional Capital Obligation.

@ Amount of reduction in Friant Surcharge is computed using FPV of Financing Costs adjusted to Yr 2020. Annual Friant Surcharge reduction to fully offset Financing costs is computed and presented on per a/f basis. Friant surcharge may be reduced up to \$3 per a/f.

Friant Surcharge (FS) Reduction Calculations

FV of Total Financing Cost for Offset	\$	2,145,618
Annual Credit Target	\$	(144,686)
FS Reduction w/o limit	\$	(3.20)
FS Reduction limit	\$	(3.00)

EXHIBIT E

Restated Contract¹

Irrigation and M&I
Contract No. I75r-2485D

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

CONTRACT BETWEEN THE UNITED STATES
AND
TULARE IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE FROM
FRIANT DIVISION AND
FOR FACILITIES REPAYMENT

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¹ Pursuant to subdivision (b) of Article 2 of the Contract to which this exhibit is attached, this Exhibit "E" makes no substantive revisions to the Contract to which it is attached and is prepared solely as a matter of administrative convenience. In this Exhibit "E", references to "Contract" or "this Contract" refers to this Restated Contract.

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1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 CONTRACT BETWEEN THE UNITED STATES
6 AND
7 TULARE IRRIGATION DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM FRIANT DIVISION AND
10 FACILITIES REPAYMENT

11 THIS CONTRACT, made this 16th day of December, 2010, is entered
12 into pursuant to the Act of June 17, 1902, (32 Stat. 388), and acts amendatory or supplementary
13 thereto, including but not limited to: the Act of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70
15 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1262), October 27, 1986 (100
16 Stat. 3050), as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and Title
17 X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), also referred to as the San Joaquin
18 River Restoration Settlement Act hereinafter referred to as SJRRSA, all collectively hereinafter
19 referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA,
20 hereinafter referred to as the United States and TULARE IRRIGATION DISTRICT, hereinafter
21 referred to as the Contractor, a public agency of the State of California, duly organized, existing,
22 and acting pursuant to the laws thereof, with its principal place of business in California;

23 WITNESSETH, That

24 EXPLANATORY RECITALS

25 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
26 Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood

27 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
28 restoration, generation and distribution of electric energy, salinity control, navigation and other
29 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and
30 the San Joaquin River and their tributaries; and

31 [2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton
32 Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant
33 Division Facilities, which will be used in part for the furnishing of water to the Contractor
34 pursuant to the terms of this Contract; and

35 [3rd] WHEREAS, the United States and the Contractor entered into Contract Number
36 I75r-2485, as amended, which established terms for the delivery to the Contractor of Project
37 Water from the Friant Division from October 18, 1950 through February 28, 1991; and

38 [4th] WHEREAS, the Contractor and the United States have entered into a renewal
39 contract and, pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act
40 (CVPIA), subsequently entered into an interim renewal contract(s), identified as Contract
41 Number (s) I75r-2485R and I75r-2485-IR1, which provided for the continued water service to
42 Contractor from March 1, 1991 through February 28, 2001, and subsequently entered into a
43 long-term renewal contract identified as Contract Number I75r-2485-LTR1, which provided for
44 continued water service to Contractor through February 28, 2026, which was amended January
45 18, 2007, and is herein referred to as the "Existing Contract"; and

46 [5th] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the
47 United States has acquired water rights and other rights to the flows of the San Joaquin River,

48 including without limitation the permits issued as the result of Decision 935 by the California
49 State Water Resource Control Board and the contracts described in subdivision (n) of Article 3
50 of this Contract, pursuant to which the Contracting Officer develops, diverts, stores and delivers
51 Project Water stored or flowing through Millerton Lake in accordance with State and Federal law
52 for the benefit of Project Contractors in the Friant Division and for other specified Project
53 purposes; and

54 [6th] WHEREAS, the water supplied to the Contractor pursuant to this Contract is
55 Project Water developed through the exercise of the rights described in the fifth (5th) Explanatory
56 Recital of this Contract; and

57 [7th] WHEREAS, as a result of litigation entitled “Natural Resources Defense Council,
58 et al. v Kirk Rogers, et al.” No. CIV-S-88-1658LLK/GGH, certain contractors from the Friant
59 Division entered into a Stipulation of Settlement dated September 13, 2006, (the “Settlement”),
60 which settlement prescribes a Restoration Goal and a Water Management Goal and which
61 Settlement was subsequently confirmed and implemented through the SJRRSA; and

62 [8th] WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the
63 Existing Contract to a repayment contract under subsection (d) of Section 9 of the Act of August
64 4, 1939, no later than December 31, 2010, and further directs that such contract shall require the
65 accelerated repayment of the Contractor’s allocated share of construction costs, either as a lump
66 sum payment by January 31, 2011 or in annual installments by January 31, 2014, which funds
67 will in turn be made available for implementation of the Settlement and SJRRSA, and which

68 costs otherwise would have been payable through annual water rates, with full repayment by
69 2030; and

70 [9th] WHEREAS, such repayment of costs will assist the United States with
71 implementation of actions required under the Settlement and the SJRRSA and provide the
72 Contractor the benefits provided in Section 10010 of the SJRRSA; and

73 [10th] WHEREAS, subsection (4) of Section 1 of the Act of July 2, 1956 (1956 Act)
74 directs the Secretary to provide that the other party to any contract entered into pursuant to
75 subsection (d) of Section 9 of the Act of August 4, 1939 (repayment contract) or pursuant to
76 subsection (e) of Section 9 of the Act of August 4, 1939 (water service contract) shall “have the
77 first right (to which the rights of the holders of any other type of irrigation water contract shall be
78 subordinate) to a stated share or quantity of the project’s available water supply for beneficial
79 use on the irrigable lands within the boundaries of, or owned by, the party and a permanent right
80 to such share or quantity upon completion of payment of the amount assigned for ultimate
81 return” by the contractor subject to fulfillment of all obligations under the contract; and

82 [11th] WHEREAS, among other things, this Contract includes provisions granting the
83 Contractor the permanent right described in the tenth (10th) Explanatory Recital; and

84 [12th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
85 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
86 reasonable and beneficial use and/or has demonstrated projected future demand for water use
87 such that the Contractor has the capability and expects to utilize fully for reasonable and

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

90 [13th] WHEREAS, water obtained from the Central Valley Project has been relied upon
91 by urban and agricultural areas within California for more than fifty (50) years and is considered
92 by the Contractor as an essential portion of its water supply; and

93 [14th] WHEREAS, the economies of regions within the Central Valley Project,
94 including the Contractor's, depend upon the continued availability of water, including water
95 service from the Central Valley Project; and

96 [15th] WHEREAS, the Secretary intends through coordination, cooperation, and
97 partnerships to pursue measures to improve water supply, water quality, and reliability of the
98 Project for all Project purposes; and

99 [16th] WHEREAS, the mutual goals of the United States and the Contractor include: to
100 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
101 repayment of the Central Valley Project as required by law; to guard reasonably against Project
102 Water shortages; to achieve a reasonable balance among competing demands for use of Project
103 Water; and to comply with all applicable environmental statutes, all consistent with the legal
104 obligations of the United States relative to the Central Valley Project; and

105 [17th] WHEREAS, any time during the Year the Contracting Officer determines that a
106 need exists to evacuate water from Millerton Lake in order to prevent or minimize spill or to
107 meet flood control criteria (currently referred to as "uncontrolled season"), taking into
108 consideration, among other things, anticipated upstream reservoir operations and the most

109 probable forecast of snowmelt and runoff projections for the upper San Joaquin River, Friant
110 Division Project Contractors utilize a portion of their undependable Class 2 Water in their
111 service areas to, among other things, assist in the management and alleviation of groundwater
112 overdraft in the Friant Division service area, provide opportunities for restoration of the San
113 Joaquin River below Friant Dam, minimize flooding along the San Joaquin River, encourage
114 optimal water management, and maximize the reasonable and beneficial use of the water; and

115 [18th] WHEREAS, the parties desire and intend that this Contract not provide a
116 disincentive to the Friant Division Project Contractors continuing to carry out the beneficial
117 activities set out in the Explanatory Recital immediately above; and

118 [19th] WHEREAS, the United States has determined that the Contractor has fulfilled all
119 of its obligations under the Existing Contract.

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

122 DEFINITIONS

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

125 (a) "Additional Capital Obligation" shall mean any additional construction
126 costs or other capitalized costs incurred after the effective date of this Contract or not reflected in
127 the Existing Capital Obligation as provided in Section 10010(a)(3)(B) of the SJRRSA and any
128 amounts payable by Contractor as determined through the final adjustment described and
129 required by Section 10010(b) of the SJRRSA;

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

132 (c) "Charges" shall mean the payments required by Federal Reclamation law
133 in addition to the Rates specified in this Contract as determined annually by the Contracting
134 Officer pursuant to this Contract and consistent with the SJRRSA;

135 (d) "Class 1 Water" shall mean that supply of water stored in or flowing
136 through Millerton Lake which, subject to the contingencies hereinafter described in Articles 3,
137 12, and 13 of this Contract, will be available for delivery from Millerton Lake and the
138 Friant-Kern and Madera Canals as a dependable water supply during each Year;

139 (e) "Class 2 Water" shall mean that supply of water which can be made
140 available subject to the contingencies hereinafter described in Articles 3, 12, and 13 of this
141 Contract for delivery from Millerton Lake and the Friant-Kern and Madera Canals in addition to
142 the supply of Class 1 Water. Because of its uncertainty as to availability and time of occurrence,
143 such water will be undependable in character and will be furnished only if, as, and when it can be
144 made available as determined by the Contracting Officer;

145 (f) "Condition of Shortage" shall mean a condition respecting the Project
146 during any Year such that the Contracting Officer is unable to deliver sufficient water to meet the
147 Contract Total;

148 (g) "Contracting Officer" shall mean the Secretary of the Interior's duly
149 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law
150 or regulation;

151 (h) "Contract Total" shall mean the maximum amount of Class 1 Water plus
152 the maximum amount of Class 2 Water specified in subdivision (a) of Article 3 of this Contract
153 and is the stated share or quantity of the Project's available water supply to which the Contractor
154 has a permanent right in accordance with the 1956 Act and the terms of this Contract, due to the
155 Contractor's complete payment of the Repayment Obligation, notwithstanding any Additional
156 Capital Obligation that may later be established, which right shall not be disturbed so long as the
157 Contractor fulfills all of its obligations under this Contract;

158 (i) "Contractor's Service Area" shall mean the area to which the Contractor is
159 permitted to provide Project Water under this Contract as described in Exhibit "A" attached
160 hereto, which may be modified from time to time in accordance with Article 36 of this Contract
161 without amendment of this Contract;

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

164 (k) Omitted;

165 (l) Omitted;

166 (m) "Existing Capital Obligation" shall mean the remaining amount of
167 construction costs of the Contractor identified in the Central Valley Project Irrigation Water
168 Rates and/or Municipal and Industrial Water Rates, respectively, dated January 25, 2007, as
169 adjusted to reflect payments not reflected in such schedule, pursuant to Section 10010(a)(3)(A)
170 of the SJRRSA. The Contracting Officer has computed the Existing Capital Obligation in a

171 manner consistent with the SJRRSA and such amount is set forth in Exhibits “C-1” and “C-2”,
172 incorporated herein by reference;

173 (n) “Financing Costs”, for purposes of computing the reduction of certain
174 charges as specified in subdivision (c) of Article 7 of this Contract, shall mean the difference
175 between the net present value of the Existing Capital Obligation discounted using the full
176 Treasury rate and the Existing Capital Obligation discounted using one-half the Treasury rate, as
177 set forth in Section 10010(d)(3) of the SJRRA;

178 (o) Omitted;

179 (p) Omitted;

180 (q) Omitted;

181 (r) “Irrigation Water” shall mean water made available from the Project that
182 is used primarily in the production of agricultural crops or livestock, including domestic use
183 incidental thereto, and watering of livestock;

184 (s) Omitted;

185 (t) “Long Term Historic Average” shall mean the average of the final forecast
186 of Water Made Available to the Contractor pursuant to this Contract and the contracts referenced
187 in the third (3rd) and fourth (4th) Explanatory Recitals of this Contract;

188 (u) “Municipal and Industrial (M&I) Water” shall mean Water Made
189 Available from the Project other than Irrigation Water made available to the Contractor. M&I
190 Water shall include water used for human use and purposes such as the watering of landscaping
191 or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered to

192 land holdings operated in units of less than five (5) acres unless the Contractor establishes to the
193 satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a
194 use described in subdivision (r) of this Article of this Contract;

195 (v) Omitted;

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

199 (x) "Operating Non-Federal Entity" shall mean the Friant Water Authority, or
200 its successor, a Non-Federal entity, which has the obligation to operate and maintain all or a
201 portion of the Friant Division Facilities pursuant to an agreement with the United States and
202 which may have funding obligations with respect thereto;

203 (y) Omitted;

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

206 (aa) "Project Contractors" shall mean all parties who have a long-term water
207 service contract or repayment contract for Project Water from the Project with the United States
208 pursuant to Federal Reclamation law;

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

212 (cc) "Rates" shall mean the payments for O&M costs as determined annually
213 by the Contracting Officer in accordance with the then-existing applicable water ratesetting
214 policies for the Project, as described in subdivision (a) of Article 7 of this Contract and
215 illustrated in Exhibit "B", attached hereto;

216 (dd) "Recovered Water Account" shall mean the program, as defined in the
217 Settlement, to make water available to all of the Friant Division Project Contractors who provide
218 water to meet interim flows or restoration flows for the purpose of reducing or avoiding the
219 impact of the interim flows and restoration flows on such contractors;

220 (ee) "Repayment Obligation", as provided in subdivision (a)(2)(A) of Article 7
221 of this Contract, shall be the Existing Capital Obligation, as defined herein, discounted by
222 one-half of the Treasury rate and computed consistent with the provisions of Section
223 10010(a)(3)(A) of the SJRRSA to be paid as either a lump sum payment by January 31, 2011 or
224 in approximately equal annual installments by January 31, 2014;

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

228 (gg) "Settlement" shall mean the Stipulation of Settlement dated September 13,
229 2006, the Order Approving Stipulation of Settlement, and the Judgment and further orders issued
230 by the Court pursuant to the terms and conditions of the Settlement in Natural Resources
231 Defense Council, et al. v. Rodgers, et al., No. CIV-S-88-1658 LLJ/GGH;

232 (hh) Omitted;

233 (ii) "Water Delivered" or "Delivered Water" shall mean Project Water
234 diverted for use by the Contractor at the point(s) of delivery approved by the Contracting
235 Officer;

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

239 (kk) "Water Management Goal" shall mean the goal of the Settlement to
240 reduce or avoid adverse water supply impacts to all the Friant Division Project Contractors that
241 may result from the interim flows and restoration flows provided for in the Settlement;

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

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

247 EFFECTIVE DATE OF CONTRACT

248 2. (a) This Contract shall become effective on the date first hereinabove written
249 and shall continue so long as the Contractor is making the annual payments required herein and
250 paying any other amounts owing under this Contract and applicable law, unless it is terminated
251 by the Contracting Officer by reason of a material uncured breach by the Contractor; Provided,
252 That the Contracting Officer shall not seek to terminate this Contract by reason of an asserted
253 material uncured breach by the Contractor unless it has first provided at least sixty (60) days

254 written notice of the asserted breach to the Contractor and the Contractor has failed to cure such
255 breach (or to diligently commence curative actions satisfactory to the Contracting Officer for a
256 breach that cannot be fully cured within sixty (60) days) within the sixty (60)-day notice period;
257 Provided further, That this Contract may be terminated at any time by mutual consent of the
258 parties hereto.

259 (b) The Contractor has paid the Repayment Obligation, and notwithstanding
260 any Additional Capital Obligation that may later be established, the tiered pricing component and
261 the acreage limitations, reporting, and Full Cost pricing provisions of Federal Reclamation law,
262 shall no longer be applicable to the Contractor.

263 (c) This Contract supersedes in its entirety and is intended to replace in full
264 the Existing Contract; Provided, That if this Contract is terminated or determined to be invalid or
265 unenforceable for any reason other than a material uncured breach of this Contract by the
266 Contractor, the Existing Contract shall not be superseded and shall be in full force and effect.

267 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

268 3. (a) During each Year, consistent with all applicable State water rights,
269 permits, and licenses, Federal law, the Settlement including the SJRRSA, and subject to the
270 provisions set forth in Articles 12 and 13 of this Contract, the Contracting Officer shall make
271 available for delivery to the Contractor from the Project 30,000 acre-feet of Class 1 Water and
272 141,000 acre-feet of Class 2 Water for irrigation and M&I purposes. The quantity of Water
273 Delivered to the Contractor in accordance with this subdivision shall be scheduled and paid for
274 pursuant to the provisions of Articles 4 and 7 of this Contract.

275 (b) The Contractor has paid the Repayment Obligation, and notwithstanding
276 any Additional Capital Obligation that may later be established, the Contractor has a permanent
277 right to the Contract Total in accordance with the 1956 Act and the terms of this Contract. This
278 right shall not be disturbed so long as the Contractor fulfills all of its obligations hereunder. The
279 quantity of water made available for delivery in any given Year shall remain subject to the terms
280 and conditions of subdivision (a) of this Article of this Contract.

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

283 (d) The Contractor shall make reasonable and beneficial use of all Project
284 Water or other water furnished pursuant to this Contract. Groundwater recharge programs,
285 groundwater banking programs, surface water storage programs, and other similar programs
286 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
287 Contractor's Service Area which are consistent with applicable State law and result in use
288 consistent with applicable Federal Reclamation law will be allowed; Provided, That any direct
289 recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted
290 pursuant to Article 27 of this Contract; Provided further, That such Water Conservation Plan
291 demonstrates sufficient lawful uses exist in the Contractor's Service Area so that using a
292 long-term average, the quantity of Delivered Water is demonstrated to be reasonable for such
293 uses and in compliance with Federal Reclamation law. Groundwater recharge programs,
294 groundwater banking programs, surface water storage programs, and other similar programs
295 utilizing Project Water or other water furnished pursuant to this Contract conducted outside the

296 Contractor's Service Area may be permitted upon written approval of the Contracting Officer,
297 which approval will be based upon environmental documentation, Project Water rights, and
298 Project operational concerns. The Contracting Officer will address such concerns in regulations,
299 policies, or guidelines.

300 (e) The Contractor, through this Contract, shall comply with requirements
301 applicable to the Contractor in biological opinion(s) prepared as a result of the consultation
302 regarding the execution of the Existing Contract undertaken pursuant to Section 7 of the
303 Endangered Species Act of 1973, as amended, as well as the requirements of any other biological
304 opinions applicable to Project Water delivery under this Contract, that are within the
305 Contractor's legal authority to implement. The Contractor shall comply with the limitations or
306 requirements imposed by environmental documentation applicable to the Contractor and within
307 its legal authority to implement regarding specific activities, including conversion of Irrigation
308 Water to M&I Water. Nothing herein shall be construed to prevent the Contractor from
309 challenging or seeking judicial relief in a court of competent jurisdiction with respect to any
310 biological opinion or other environmental documentation referred to in this Article of this
311 Contract.

312 (f) Subject to subdivisions (l) and (n) of this Article of this Contract,
313 following the declaration of Water Made Available under Article 4 of this Contract, the
314 Contracting Officer will make a determination whether Project Water, or other water available to
315 the Project, can be made available to the Contractor in addition to the Contract Total in this
316 Article of this Contract during the Year without adversely impacting the Project or other Project

317 Contractors and consistent with the Secretary's legal obligations. At the request of the
318 Contractor, the Contracting Officer will consult with the Contractor prior to making such a
319 determination. Subject to subdivisions (l) and (n) of this Article of this Contract, if the
320 Contracting Officer determines that Project Water, or other water available to the Project, can be
321 made available to the Contractor, the Contracting Officer will announce the availability of such
322 water and shall so notify the Contractor as soon as practical. The Contracting Officer will
323 thereafter meet with the Contractor and other Project Contractors capable of taking such water to
324 determine the most equitable and efficient allocation of such water. If the Contractor requests
325 the delivery of any quantity of such water, the Contracting Officer shall make such water
326 available to the Contractor in accordance with applicable statutes, regulations, guidelines, and
327 policies.

328 (g) The Contractor may request permission to reschedule for use during the
329 subsequent Year some or all of the Water Made Available to the Contractor during the current
330 Year referred to as "carryover." The Contractor may request permission to use during the
331 current Year a quantity of Project Water which may be made available by the United States to
332 the Contractor during the subsequent Year referred to as "pre-use." The Contracting Officer's
333 written approval may permit such uses in accordance with applicable statutes, regulations,
334 guidelines, and policies.

335 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
336 State law to the reasonable and beneficial use of the Water Delivered pursuant to this Contract
337 shall not be disturbed so long as the Contractor shall fulfill all of its obligations under this

338 Contract. Nothing in the preceding sentence shall affect the Contracting Officer's ability to
339 impose shortages under Article 12 or subdivision (b) of Article 13 of this Contract.

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

344 (j) The Contracting Officer shall make reasonable efforts to protect the water
345 rights and other rights described in the fifth (5th) Explanatory Recital of this Contract and to
346 provide the water available under this Contract. The Contracting Officer shall not object to
347 participation by the Contractor, in the capacity and to the extent permitted by law, in
348 administrative proceedings related to the water rights and other rights described in the fifth (5th)
349 Explanatory Recital of this Contract; Provided however, That the Contracting Officer retains the
350 right to object to the substance of the Contractor's position in such a proceeding. Provided
351 further, that in such proceedings the Contracting Officer shall recognize the Contractor has a
352 legal right under the terms of this Contract to use Project Water.

353 (k) Project Water furnished to the Contractor during any month designated in
354 a schedule or revised schedule submitted by the Contractor and approved by the Contracting
355 Officer shall be deemed to have been accepted by the Contractor as Class 1 Water to the extent
356 that Class 1 Water is called for in such schedule for such month and shall be deemed to have
357 been accepted as Class 2 Water to the extent Class 2 Water is called for in such schedule for such
358 month. If in any month the Contractor diverts a quantity of water in addition to the total amount

359 of Class 1 Water and Class 2 Water set forth in the Contractor's approved schedule or revised
360 schedule for such month, such additional diversions shall be charged first against the
361 Contractor's remaining Class 2 Water supply available in the current Year. To the extent the
362 Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to
363 account for such additional diversions, such additional diversions shall be charged against the
364 Contractor's remaining Class 1 Water supply available in the current Year. To the extent the
365 Contractor's remaining Class 1 Water and Class 2 Water supplies available in the current Year
366 are not sufficient to account for such additional diversions, such additional diversions shall be
367 charged first against the Contractor's available Class 2 Water supply and then against the
368 Contractor's available Class 1 Water supply, both for the following Year. Payment for all
369 additional diversions of water shall be made in accordance with Article 7 of this Contract.

370 (l) If the Contracting Officer determines there is a Project Water supply
371 available at Friant Dam as the result of an unusually large water supply not otherwise storable for
372 Project purposes or infrequent and otherwise unmanaged flood flows of short duration, such
373 water will be made available to the Contractor and others under Section 215 of the Act of
374 October 12, 1982, pursuant to the priorities specified below if the Contractor enters into a
375 temporary contract with the United States not to exceed one (1) year for the delivery of such
376 water or as otherwise provided for in Federal Reclamation law and associated regulations. Such
377 water may be identified by the Contractor either (i) as additional water to supplement the supply
378 of Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon
379 written notification to the Contracting Officer, as water to be credited against the Contractor's

380 Class 2 Water supply available pursuant to this Contract. The Contracting Officer shall make
381 water determined to be available pursuant to this subsection according to the following priorities:
382 first, to contractors for Class 1 Water and/or Class 2 Water within the Friant Division; second, to
383 contractors in the Cross Valley Division of the Project. The Contracting Officer will consider
384 requests from other parties for Section 215 Water for use within the area identified as the Friant
385 Division service area in the environmental assessment developed in connection with the
386 execution of the Existing Contract.

387 (m) Nothing in this Contract, nor any action or inaction of the Contractor or
388 Contracting Officer in connection with the implementation of this Contract, is intended to
389 override, modify, supersede or otherwise interfere with any term or condition of the water rights
390 and other rights referred in the fifth (5th) Explanatory Recital of this Contract.

391 (n) The rights of the Contractor under this Contract are subject to the terms of
392 the contract for exchange waters, dated July 27, 1939, between the United States and the San
393 Joaquin and Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred
394 to as the Exchange Contractors), Contract No. I1r-1144, as amended. The United States agrees
395 that it will not deliver to the Exchange Contractors thereunder waters of the San Joaquin River
396 unless and until required by the terms of said contract, and the United States further agrees that it
397 will not voluntarily and knowingly determine itself unable to deliver to the Exchange
398 Contractors entitled thereto from water that is available or that may become available to it from
399 the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta those quantities
400 required to satisfy the obligations of the United States under said Exchange Contract and under

401 Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract I1r-1145,
402 dated July 27, 1939).

403 (o) Pursuant to and consistent with section 10004 of SJRRSA and Paragraph
404 16 of the Settlement, the Contracting Officer is required to develop and implement a plan for
405 recirculation, recapture, reuse, exchange or transfer of water released for restoration flows or
406 interim flows, as those terms are defined in the Settlement, to reduce or avoid impacts to water
407 deliveries caused by said restoration flows or interim flows and water developed through such
408 activities may be made available (i) to the Contractor without the need of an additional contract,
409 and/or (ii) to others on behalf of the Contractor under terms mutually acceptable to the
410 Contractor and the Contracting Officer that are consistent with the Water Management Goal.

411 TIME FOR DELIVERY OF WATER

412 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer
413 shall announce the Contracting Officer's initial declaration of the Water Made Available. The
414 declaration will be updated monthly and more frequently if necessary, based on then-current
415 operational and hydrologic conditions and a new declaration with changes, if any, to the Water
416 Made Available will be made. The Contracting Officer shall provide forecasts of Project
417 operations and the basis of the estimate, with relevant supporting information, upon the written
418 request of the Contractor. Concurrently with the declaration of the Water Made Available, the
419 Contracting Officer shall provide the Contractor with the updated Long Term Historic Average.
420 The declaration of Project operations will be expressed in terms of both Water Made Available
421 and the Long Term Historic Average.

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

428 (c) The Contractor shall not schedule Project Water in excess of the quantity
429 of Project Water the Contractor intends to put to reasonable and beneficial use within the
430 Contractor's Service Area, or to sell, transfer or exchange pursuant to Article 10 of this Contract
431 or bank pursuant to subdivision (d) of Article 3 of this Contract during any Year.

432 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
433 Contract, the United States shall deliver Project Water to the Contractor in accordance with the
434 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any
435 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
436 time prior to the date(s) on which the requested change(s) is/are to be implemented; Provided,
437 That the total amount of water requested in that schedule or revision does not exceed the
438 quantities announced by the Contracting Officer pursuant to the provisions of subdivision (a) of
439 Article 3 of this Contract, and the Contracting Officer determines that there will be sufficient
440 capacity available in the appropriate Friant Division Facilities to deliver the water in accordance
441 with that schedule; Provided further, That the Contractor shall not schedule the delivery of any
442 water during any period as to which the Contractor is notified by the Contracting Officer or

443 Operating Non-Federal Entity that Project facilities required to make deliveries to the Contractor
444 will not be in operation because of scheduled O&M.

445 (e) The Contractor may, during the period from and including November 1 of
446 each Year through and including the last day of February of that Year, request delivery of any
447 amount of the Class 1 Water estimated by the Contracting Officer to be made available to it
448 during the following Year. The Contractor may, during the period from and including January 1
449 of each Year (or such earlier date as may be determined by the Contracting Officer) through and
450 including the last day of February of that Year, request delivery of any amount of Class 2 Water
451 estimated by the Contracting Officer to be made available to it during the following Year. Such
452 water shall hereinafter be referred to as pre-use water. Such request must be submitted in writing
453 by the Contractor for a specified quantity of pre-use and shall be subject to the approval of the
454 Contracting Officer. Payment for pre-use water so requested shall be at the appropriate Rate(s)
455 for the following Year in accordance with Article 7 of this Contract and shall be made in
456 advance of delivery of any pre-use water. The Contracting Officer shall deliver such pre-use
457 water in accordance with a schedule or any revision thereof submitted by the Contractor and
458 approved by the Contracting Officer, to the extent such water is available and to the extent such
459 deliveries will not interfere with the delivery of Project Water entitlements to other Friant
460 Division contractors or the physical maintenance of the Project facilities. The quantities of
461 pre-use Water Delivered pursuant to this subdivision shall be deducted from the quantities of
462 water that the Contracting Officer would otherwise be obligated to make available to the
463 Contractor during the following Year; Provided, That the quantity of pre-use water to be

464 deducted from the quantities of either Class 1 Water or Class 2 Water to be made available to the
465 Contractor in the following Year shall be specified by the Contractor at the time the pre-use
466 water is requested or as revised in its first schedule for the following Year submitted in
467 accordance with subdivision (b) of this Article of this Contract, based on the availability of the
468 following Year water supplies as determined by the Contracting Officer.

469 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

474 (b) The Contracting Officer, the Operating Non-Federal Entity, or other
475 appropriate entity shall make all reasonable efforts to maintain sufficient flows and levels of
476 water in the Friant-Kern Canal to deliver Project Water to the Contractor at specific turnouts
477 established pursuant to subdivision (a) of this Article of this Contract.

478 (c) The Contractor shall not deliver Project Water to land outside the
479 Contractor's Service Area unless approved in advance by the Contracting Officer. The
480 Contractor shall deliver Project Water in accordance with applicable Federal Reclamation law.

481
482 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
483 measured and recorded with equipment furnished, installed, operated, and maintained by the
484 United States, the Operating Non-Federal Entity or other appropriate entity as designated by the

485 Contracting Officer (hereafter “other appropriate entity”) at the point or points of delivery
486 established pursuant to subdivision (a) of this Article of this Contract. Upon the request of either
487 party to this Contract, the Contracting Officer shall investigate, or cause to be investigated by the
488 responsible Operating Non-Federal Entity, the accuracy of such measurements and shall take any
489 necessary steps to adjust any errors appearing therein. For any period of time when accurate
490 measurements have not been made, the Contracting Officer shall consult with the Contractor and
491 the responsible Operating Non-Federal Entity prior to making a final determination of the
492 quantity delivered for that period of time.

493 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity
494 shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project
495 Water Delivered to the Contractor pursuant to this Contract beyond the delivery points specified
496 in subdivision (a) of this Article of this Contract. The Contractor shall indemnify the United
497 States, its officers, employees, agents, and assigns on account of damage or claim of damage of
498 any nature whatsoever for which there is legal responsibility, including property damage,
499 personal injury, or death arising out of or connected with the control, carriage, handling, use,
500 disposal, or distribution of such Project Water beyond such delivery points, except for any
501 damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its
502 officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity,
503 with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct
504 of the Contracting Officer or any of its officers, employees, agents, or assigns, including any
505 responsible Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of

506 its officers, employees, agents, or assigns including any responsible Operating Non-Federal
507 Entity; or (iv) damage or claims resulting from a malfunction of facilities owned and/or operated
508 by the United States or responsible Operating Non-Federal Entity; Provided, That the Contractor
509 is not the Operating Non-Federal Entity that owned or operated the malfunctioning facility(ies)
510 from which the damage claim arose.

511 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

512 6. (a) The Contractor has established a measurement program satisfactory to the
513 Contracting Officer; all surface water delivered for irrigation purposes within the Contractor's
514 Service Area is measured at each agricultural turnout; and water delivered for M&I purposes is
515 measured at each M&I service connection. The water measuring devices or water measuring
516 methods of comparable effectiveness must be acceptable to the Contracting Officer. The
517 Contractor shall be responsible for installing, operating, and maintaining and repairing all such
518 measuring devices and implementing all such water measuring methods at no cost to the United
519 States. The Contractor shall use the information obtained from such water measuring devices or
520 water measuring methods to ensure its proper management of the water, to bill water users for
521 water delivered by the Contractor; and, if applicable, to record water delivered for M&I purposes
522 by customer class as defined in the Contractor's water conservation plan provided for in Article
523 27 of this Contract. Nothing herein contained, however, shall preclude the Contractor from
524 establishing and collecting any charges, assessments, or other revenues authorized by California
525 law.

526 (b) To the extent the information has not otherwise been provided, upon
527 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
528 report describing the measurement devices or water measuring methods being used or to be used
529 to implement subdivision (a) of this Article of this Contract and identifying the agricultural
530 turnouts and the M&I service connections or alternative measurement programs approved by the
531 Contracting Officer, at which such measurement devices or water measuring methods are being
532 used, and, if applicable, identifying the locations at which such devices and/or methods are not
533 yet being used including a time schedule for implementation at such locations. The Contracting
534 Officer shall advise the Contractor in writing within sixty (60) days as to the adequacy of, and
535 necessary modifications, if any, of the measuring devices or water measuring methods identified
536 in the Contractor's report and if the Contracting Officer does not respond in such time, they shall
537 be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring
538 devices or methods are inadequate, the parties shall within sixty (60) days following the
539 Contracting Officer's response, negotiate in good faith the earliest practicable date by which the
540 Contractor shall modify said measuring devices and/or measuring methods as required by the
541 Contracting Officer to ensure compliance with subdivision (a) of this Article of this Contract.

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

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

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

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

553 7. (a) The Contractor's cost obligations for all Delivered Water shall be
554 determined in accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted
555 in 1988 and the Secretary's then-existing ratesetting policy for M&I Water, consistent with the
556 SJRRSA, and such ratesetting policies shall be amended, modified, or superseded only through a
557 public notice and comment procedure; (ii) applicable Federal Reclamation law and associated
558 rules and regulations, or policies; and (iii) other applicable provisions of this Contract.

559 (1) The Contractor shall pay the United States as provided for in this
560 Article of this Contract for the Delivered Water at Rates and Charges determined in accordance
561 with policies for Irrigation Water and M&I Water. The Contractor's Rates shall be established to
562 recover its estimated reimbursable costs included in the O&M component of the Rate and
563 amounts established to recover other charges and deficits, other than the construction costs. The
564 Rates for O&M costs and Charges shall be adjusted, as appropriate, in accordance with the
565 provisions of the SJRRSA.

566 (2) Omitted.

567 (A) Omitted.

568 (B) Project construction costs or other capitalized costs

569 attributable to capital additions to the Project incurred after the effective date of this Contract or

570 that are not reflected in the schedules referenced in Exhibits "C-1" and "C-2" and properly

571 assignable to the Contractor, shall be repaid as prescribed by the SJRRSA without interest except

572 as required by law. Consistent with Federal Reclamation law, interest shall continue to accrue

573 on the M&I portion of unpaid Project construction costs or other capitalized cost assigned to the

574 Contractor until such costs are paid. Increases or decreases in Project construction costs or other

575 capitalized costs assigned to the Contractor caused solely by annual adjustment of Project

576 construction costs or other capitalized costs assigned to each Central Valley Project contractor by

577 the Secretary shall not be considered in determining the amounts to be paid pursuant to this

578 subdivision (a)(2)(B), but will be considered under subdivision (b) of this Article. A separate

579 repayment agreement shall be established by the Contractor and the Contracting Officer to

580 accomplish repayment of all additional Project construction costs or other capitalized costs

581 assigned to the Contractor within the timeframe prescribed by the SJRRSA subject to the

582 following:

583 (1) If the collective annual Project construction costs or

584 other capitalized costs that are incurred after the effective date of this Contract and properly

585 assignable to the contractors are less than \$5,000,000, then the portion of such costs properly

586 assignable to the Contractor shall be repaid in not more than five (5) years after notification of

587 the allocation. This amount is the result of a collective annual allocation of Project construction

588 costs to the contractors exercising contract conversions; Provided, That the reference to the
589 amount of \$5,000,000 shall not be a precedent in any other context.

590 (2) If the collective annual Project construction costs or
591 other capitalized costs that are incurred after the effective date of this Contract and properly
592 assignable to the contractors are \$5,000,000 or greater, then the portion of such costs properly
593 assignable to the Contractor shall be repaid as provided by applicable Federal Reclamation law.
594 This amount is the result of a collective annual allocation of Project construction costs to the
595 contractors exercising contract conversions; Provided, That the reference to the amount of
596 \$5,000,000 shall not be a precedent in any other context.

597 (b) Consistent with Section 10010(b) of the SJRRSA, following a final cost
598 allocation by the Secretary upon completion of the construction of the Central Valley Project, the
599 amounts paid by the Contractor shall be subject to adjustment to reflect the effect of any
600 reallocation of Project construction costs or other capitalized costs assigned to the Contractor
601 that may have occurred between the determination of Contractor's Existing Capital Obligation
602 and the final cost allocation. In the event that the final cost allocation, as determined by the
603 Secretary, indicates that the costs properly assignable to the Contractor, as determined by the
604 Contracting Officer, are greater than the Existing Capital Obligation and other amounts of
605 Project construction costs or other capitalized costs paid by the Contractor, then the Contractor
606 shall be obligated to pay the remaining allocated costs. The term of such additional repayment
607 contract shall be no less than one (1) year and no more than ten (10) years, however, mutually
608 agreeable provisions regarding the rate of repayment of such amount may be developed by the

609 parties. In the event that the final cost allocation, as determined by the Secretary, indicates that
610 the costs properly assignable to the Contractor, as determined by the Contracting Officer, are less
611 than the Existing Capital Obligation and other amounts of Project construction costs or other
612 capitalized costs paid by the Contractor, then the Contracting Officer shall credit such
613 overpayment as an offset against any outstanding or future obligation of the Contractor,
614 consistent with the SJRRSA. This Contract shall be implemented in a manner consistent with
615 Section 10010(f) of the SJRRSA.

616 (c) Prior to July 1 of each Calendar Year, the Contracting Officer shall
617 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
618 period October 1, of the current Calendar Year, through September 30, of the following Calendar
619 Year, and the basis for such estimate. The Contractor shall be allowed not less than two (2)
620 months to review and comment on such estimates. On or before September 15 of each Calendar
621 Year, the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect
622 during the period October 1 of the current Calendar Year, through September 30 of the following
623 Calendar Year, and such notification shall revise Exhibit "B". Charges shall be subject to
624 reduction consistent with the SJRRSA based upon the average annual delivery amount agreed to
625 by the Contracting Officer and the Contractor.

626 (1) For the years 2020 through 2039 inclusive, Charges shall reflect
627 the reduction on a per acre-foot basis consistent with Section 10010(d)(1) of the SJRRSA.
628 Exhibit "D" sets forth the reduction in Charges to offset the Financing Costs as prescribed in
629 Section 10010(d)(1) of the SJRRSA; Provided, That if the Secretary determines such Charges are

630 otherwise needed, an equivalent reduction will be made to O&M costs consistent with such
631 provisions of the SJRRSA. Consistent with Section 10010(d)(1) of the SJRRSA and as shown in
632 Exhibit "D", the Friant Surcharge reduction has been calculated based upon the anticipated
633 average annual water deliveries, for the purpose of this reduction only, mutually agreed upon by
634 the Secretary and the Contractor for the period from January 1, 2020 through December 31,
635 2039. The Friant Surcharge reduction shall remain fixed and shall only be applied to Water
636 Delivered pursuant to this Contract to which the Friant Surcharge applies (including but not
637 limited to water transferred, banked, or exchanged), commencing on January 1, 2020 until such
638 volume of Water Delivered equals 904,800 acre-feet or December 31, 2039, whichever occurs
639 first.

640 (2) Further, to fully offset the Financing Costs, Contractor shall be
641 entitled to a reduction in other outstanding or future obligations of the Contractor in accordance
642 with Section 10010(d)(2) of the SJRRSA. The amount of such further reduction in outstanding
643 or future obligations of the Contractor after October 1, 2019 has been computed by the
644 Contracting Officer, and as computed, such amount is set forth in Exhibit "D".

645 (d) Prior to October 1 of each Calendar Year, the Contracting Officer shall
646 make available to the Contractor an estimate of the Rates for Project Water for the following
647 Year and the computations and cost allocations upon which those Rates are based. The
648 Contractor shall be allowed not less than two (2) months to review and comment on such
649 computations and cost allocations. By December 31 of each Calendar Year, the Contracting
650 Officer shall provide the Contractor with the final Rates to be in effect for the upcoming Year,

651 and such notification shall revise Exhibit "B". The O&M component of the Rate may be
652 reduced as provided in the SJRRSA.

653 (e) At the time the Contractor submits the initial schedule for the delivery of
654 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
655 Contractor shall make an advance payment to the United States equal to the total amount payable
656 pursuant to the applicable Rate(s) set under subdivision (a) of this Article of this Contract, for the
657 Project Water scheduled to be delivered pursuant to this Contract during the first two (2)
658 calendar months of the Year. Before the end of the first month and before the end of each
659 calendar month thereafter, the Contractor shall make an advance payment to the United States, at
660 the Rate(s) set under subdivision (a) of this Article of this Contract, for the Water Scheduled to
661 be delivered pursuant to this Contract during the second month immediately following.

662 Adjustments between advance payments for Water Scheduled and payments at Rates due for
663 Water Delivered shall be made before the end of the following month; Provided, That any
664 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which
665 increases the amount of Water Delivered pursuant to this Contract during any month shall be
666 accompanied with appropriate advance payment, at the Rates then in effect, to assure that Project
667 Water is not delivered to the Contractor in advance of such payment. In any month in which the
668 quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of
669 Water Scheduled and paid for by the Contractor, no additional Project Water shall be delivered
670 to the Contractor unless and until an advance payment at the Rates then in effect for such
671 additional Project Water is made. Final adjustment between the advance payments for the Water

672 Scheduled and payments for the quantities of Water Delivered during each Year pursuant to this
673 Contract shall be made as soon as practicable but no later than April 30th of the following Year,
674 or sixty (60) days after the delivery of Project Water carried over under subdivision (g) of Article
675 3 of this Contract if such water is not delivered by the last day of February.

676 (f) The Contractor shall also make a payment in addition to the Rate(s) in
677 subdivision (e) of this Article of this Contract to the United States for Water Delivered, at the
678 Charges then in effect, before the end of the month following the month of delivery. The
679 payments shall be consistent with the quantities of Irrigation Water and M&I Water Delivered as
680 shown in the water delivery report for the subject month prepared by the Contracting Officer.
681 Such water delivery report shall be the basis for payment of Charges by the Contractor, and shall
682 be provided to the Contractor by the Contracting Officer (as applicable) within five (5) days after
683 the end of the month of delivery. The water delivery report shall be deemed a bill basis for
684 payment of Charges for Water Delivered. Adjustment for overpayment or underpayment of
685 Charges shall be made through the adjustment of payments due to the United States for Charges
686 for the next month. Any amount to be paid for past due payment of Charges shall be computed
687 pursuant to Article 21 of this Contract.

688 (g) The Contractor shall pay for any Water Delivered under subdivision (d),
689 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to
690 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting
691 policies; Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this

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

694 (h) Payments to be made by the Contractor to the United States under this
695 Contract may be paid from any revenues available to the Contractor.

696 (i) All revenues received by the United States from the Contractor relating to
697 the delivery of Project Water or the delivery of non-project water through Project facilities shall
698 be allocated and applied in accordance with Federal Reclamation law and the associated rules or
699 regulations, the then-existing Project Ratesetting policies for M&I Water or Irrigation Water, and
700 consistent with the SJRRSA.

701 (j) The Contracting Officer shall keep its accounts, pertaining to the
702 administration of the financial terms and conditions of its long-term contracts, in accordance
703 with applicable Federal standards so as to reflect the application of Project costs and revenues.
704 The Contracting Officer shall, each Year upon request of the Contractor, provide to the
705 Contractor a detailed accounting of all Project and Contractor expense allocations, the
706 disposition of all Project and Contractor revenues, and a summary of all water delivery
707 information. The Contracting Officer and the Contractor shall enter into good faith negotiations
708 to resolve any discrepancies or disputes relating to accountings, reports, or information.

709 (k) The parties acknowledge and agree that the efficient administration of this
710 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
711 policies, and procedures used for establishing Rates, Charges, and/or for making and allocating
712 payments, other than those set forth in this Article of this Contract, may be in the mutual best

713 interest of the parties, it is expressly agreed that the parties may enter into agreements to modify
714 the mechanisms, policies, and procedures for any of those purposes while this Contract is in
715 effect without amending this Contract.

716 (l) (1) Omitted.

717 (2) Omitted.

718 (3) Omitted.

719 (m) Rates under the respective ratesetting policies will be established to
720 recover only reimbursable O&M (including any deficits) costs of the Project, as those terms are
721 used in the then-existing Project ratesetting policies, and consistent with the SJRRSA, and
722 interest, where appropriate, except in instances where a minimum Rate is applicable in
723 accordance with the relevant Project ratesetting policy. Changes of significance in practices
724 which implement the Contracting Officer's ratesetting policies will not be implemented until the
725 Contracting Officer has provided the Contractor an opportunity to discuss the nature, need, and
726 impact of the proposed change.

727 (n) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
728 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
729 adjusted upward or downward to reflect the changed costs of delivery (if any) incurred by the
730 Contracting Officer in the delivery of the transferred Project Water to the transferee's point of
731 delivery in accordance with the then-existing Central Valley Project Ratesetting Policy.

NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

8. The Contractor and the Contracting Officer concur that, as of the effective date of this Contract, the Contractor has no non-interest bearing operation and maintenance deficits and therefore shall have no further liability.

RECOVERED WATER ACCOUNT

9. (a) Notwithstanding any other provisions of this Contract, water delivered to the Contractor under its Recovered Water Account as provided at Paragraph 16(b) of the Settlement and affirmed by Section 10004(a)(5) of the SJRRSA shall be at the total cost of \$10.00 per acre foot. Recovered Water Account water provided to the Contractor shall be administered at a priority for delivery lower than Class 2 Water and higher than Section 215 Water.

(b) The manner in which the Recovered Water Account will be administered will be developed in accordance with subdivision (k) of Article 7 of this Contract, the SJRRSA, and Paragraph 16 of the Settlement.

SALES, TRANSFERS, AND EXCHANGES OF WATER

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

753 such Project Water sales, transfers, or exchanges shall be approved, where approval is required,
754 absent compliance with appropriate environmental documentation including but not limited to
755 the National Environmental Policy Act and the Endangered Species Act. Such environmental
756 documentation must include, as appropriate, an analysis of groundwater impacts and economic
757 and social effects, including environmental justice, of the proposed Project Water sales, transfers
758 and exchanges on both the transferor/exchanger and transferee/exchange recipient.

759 (b) In order to facilitate efficient water management by means of Project
760 Water sales, transfers, or exchanges of the type historically carried out among Project
761 Contractors located within the same geographical area and to allow the Contractor to participate
762 in an accelerated water transfer program, the Contracting Officer has prepared, as appropriate,
763 necessary environmental documentation including, but not limited to, the National
764 Environmental Policy Act and the Endangered Species Act analyzing annual Project Water sales,
765 transfers, or exchanges among Contractors within the same geographical area and the
766 Contracting Officer has determined that such Project Water sales, transfers, and exchanges
767 comply with applicable law.

768 (c) Project Water sales, transfers, and exchanges analyzed in the
769 environmental documentation referenced in subdivision (b) of this Article of this Contract, shall
770 be conducted with advance notice to the Contracting Officer and the Contracting Officer's
771 written acknowledgement of the transaction, but shall not require prior written approval by the
772 Contracting Officer.

773 (d) For Project Water sales, transfers, or exchanges to qualify under
774 subdivision (b) of this Article of this Contract such Project Water sale, transfer, or exchange
775 must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for
776 M&I use, groundwater recharge, groundwater banking, similar groundwater activities, surface
777 water storage, or fish and wildlife resources; not lead to land conversion; and be delivered to
778 established cropland, wildlife refuges, groundwater basins or M&I use; (ii) occur within a single
779 Year; (iii) occur between a willing seller and a willing buyer or willing exchangers; (iv) convey
780 water through existing facilities with no new construction or modifications to facilities and be
781 between existing Project Contractors and/or the Contractor and the United States, Department of
782 the Interior; and (v) comply with all applicable Federal, State, and local or tribal laws and
783 requirements imposed for protection of the environment and Indian Trust Assets, as defined
784 under Federal law.

785 (e) The environmental documentation and the Contracting Officer's
786 compliance determination for transactions described in subdivision (b) of this Article of this
787 Contract shall be reviewed every five (5) years and updated, as necessary, prior to the expiration
788 of the then-existing five (5) year period. All subsequent environmental documentation shall
789 include an alternative to evaluate not less than the quantity of Project Water historically sold,
790 transferred, or exchanged within the same geographical area.

791 (f) Consistent with Section 10010(e)(l) of the SJRRSA, any agreement
792 providing for sale, transfer, or exchange of Project Water that is not used for interim flows or
793 restoration flows pursuant to Paragraphs 13 and 15 of the Settlement, shall be deemed to satisfy

794 the requirements of CVPIA section 3405(a)(1)(A) and (I); Provided, That such sales, transfers, or
795 exchanges comply with sub-division (f)(1) and (f)(2) below.

796 (1) Project Water sales, transfers, and exchanges conducted under the
797 provisions of subdivision (f) of this Article of this Contract shall not require the Contracting
798 Officer's concurrence as to compliance with CVPIA 3405(a)(1)(A) and (I); Provided, That the
799 Contractor shall, for Project Water sales, transfers, or exchanges, with a term greater than one (1)
800 year, provide ninety (90) days written advance notification to the Contracting Officer and
801 similarly thirty (30) days written advance notification of any Project Water sale, transfer, or
802 exchange with a term of less than one (1) year. The Contracting Officer shall promptly make
803 such notice publicly available.

804 (2) The Contractor's thirty (30) days or ninety (90) days advance
805 written notification pursuant to subdivision (f)(1) of this Article of this Contract shall explain
806 how the proposed Project Water sales, transfers, or exchanges are intended to reduce, avoid, or
807 mitigate impacts to Project Water deliveries caused by interim or restoration flows or is
808 otherwise intended to facilitate the Water Management Goal as described in the SJRRSA. The
809 Contracting Officer shall promptly make such notice publicly available.

810 (3) In addition, the Contracting Officer shall, at least annually, make
811 available publicly a compilation of the number of Project Water sales, transfers, and exchange
812 agreements implemented in accordance with sub-divisions (f)(1) and (f)(2) of this Article of this
813 Contract.

814 (4) Project Water sold, transferred, or exchanged under an agreement
815 that meets the terms of subdivisions (f)(1) and (f)(2) of this Article of this Contract shall not be
816 counted as a replacement or an offset for purposes of determining reductions to Project Water
817 deliveries to any Friant Division Project Contractor except as provided in Paragraph 16(b) of the
818 Settlement.

819 (g) Notwithstanding any Additional Capital Obligation that may later be
820 established, in the case of a sale or transfer of Irrigation Water to another contractor which is
821 otherwise subject to the acreage limitations, reporting, and Full Cost pricing provisions of the
822 Reclamation Reform Act of 1982, as amended, hereinafter referred to as the RRA, such sold or
823 transferred Irrigation Water shall not be subject to such RRA provisions, however, in the case of
824 a sale or transfer of Irrigation Water to the Contractor from another contractor which is subject to
825 RRA provisions, such RRA provisions shall apply to delivery of such water.

826 APPLICATION OF PAYMENTS AND ADJUSTMENTS

827 11. (a) The amount of any overpayment by the Contractor of the Contractor's
828 O&M, Capital, and deficit (if any) obligations for the Year shall be applied first to any current
829 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
830 more than One Thousand Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu
831 of a refund, any amount of such overpayment, at the option of the Contractor, may be credited
832 against amounts to become due to the United States by the Contractor. With respect to
833 overpayment, such refund or adjustment shall constitute the sole remedy of the Contractor or
834 anyone having or claiming to have the right to the use of any of the Project Water supply

835 provided for herein. All credits and refunds of overpayments shall be made within thirty (30)
836 days of the Contracting Officer obtaining direction as to how to credit or refund such
837 overpayment in response to the notice to the Contractor that it has finalized the accounts for the
838 Year in which the overpayment was made.

839 (b) All advances for miscellaneous costs incurred for work requested by the
840 Contractor pursuant to Article 26 of this Contract shall be adjusted to reflect the actual costs
841 when the work has been completed. If the advances exceed the actual costs incurred, the
842 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
843 advances, the Contractor will be billed for the additional costs pursuant to Article 26 of this
844 Contract.

845 TEMPORARY REDUCTIONS—RETURN FLOWS

846 12. (a) The Contracting Officer shall make all reasonable efforts to optimize
847 delivery of the Contract Total subject to: (i) the authorized purposes and priorities of the Project;
848 (ii) the requirements of Federal law and the Settlement; and (iii) the obligations of the United
849 States under existing contracts, or renewals thereof, providing for water deliveries from the
850 Project.

851 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
852 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for
853 the purposes of investigation, inspection, maintenance, repair, or replacement of any of the
854 Project facilities or any part thereof necessary for the delivery of Project Water to the Contractor,
855 but so far as feasible the Contracting Officer or Operating Non-Federal Entity will give the

856 Contractor due notice in advance of such temporary discontinuance or reduction, except in case
857 of emergency, in which case no notice need be given; Provided, That the United States shall use
858 its best efforts to avoid any discontinuance or reduction in such service. Upon resumption of
859 service after such reduction or discontinuance, and if requested by the Contractor, the United
860 States will, if possible, deliver the quantity of Project Water which would have been delivered
861 hereunder in the absence of such discontinuance or reduction.

862 (c) The United States reserves the right to all seepage and return flow water
863 derived from Water Delivered to the Contractor hereunder which escapes or is discharged
864 beyond the Contractor's Service Area; Provided, That this shall not be construed as claiming for
865 the United States any right as seepage or return flow to water being used pursuant to this
866 Contract for surface irrigation or underground storage either being put to reasonable and
867 beneficial use pursuant to this Contract within the Contractor's Service Area by the Contractor or
868 those claiming by, through, or under the Contractor. For purposes of this subdivision,
869 groundwater recharge, groundwater banking and all similar groundwater activities will be
870 deemed to be underground storage.

871 CONSTRAINTS ON THE AVAILABILITY OF WATER

872 13. (a) In its operation of the Project, the Contracting Officer will use all
873 reasonable means to guard against a Condition of Shortage in the quantity of water to be made
874 available to the Contractor pursuant to this Contract. In the event the Contracting Officer
875 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
876 Contractor of said determination as soon as practicable.

877 (b) If there is a Condition of Shortage because of errors in physical operations
878 of the Project, drought, other physical causes beyond the control of the Contracting Officer or
879 actions taken by the Contracting Officer to meet legal obligations, including but not limited to
880 obligations pursuant to the Settlement then, except as provided in subdivision (a) of Article 19 of
881 this Contract, no liability shall accrue against the United States or any of its officers, agents, or
882 employees for any damage, direct or indirect, arising therefrom.

883 (c) The United States shall not execute contracts which together with this
884 Contract, shall in the aggregate provide for furnishing Class 1 Water in excess of 800,000
885 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year; Provided, That,
886 subject to subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water
887 contracts shall not prohibit the United States from entering into temporary contracts of one year
888 or less in duration for delivery of Project Water to other entities if such water is not necessary to
889 meet the schedules as may be submitted by all Friant Division Project Contractors entitled to
890 receive Class 1 Water and/or Class 2 Water under their contracts. Nothing in this subdivision
891 shall limit the Contracting Officer's ability to take actions that result in the availability of new
892 water supplies to be used for Project purposes and allocating such new supplies; Provided, That
893 the Contracting Officer shall not take such actions until after consultation with the Friant
894 Division Project Contractors.

895 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to
896 this or any other contract heretofore or hereafter entered into any Year unless and until the
897 Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in

898 subdivision (c) of this Article of this Contract will be available for delivery in said Year. If the
899 Contracting Officer determines there is or will be a shortage in any Year in the quantity of
900 Class 1 Water available for delivery, the Contracting Officer shall apportion the available Class 1
901 Water among all Contractors entitled to receive such water that will be made available at Friant
902 Dam in accordance with the following:

903 (1) A determination shall be made of the total quantity of Class 1
904 Water at Friant Dam which is available for meeting Class 1 Water contractual commitments, the
905 amount so determined being herein referred to as the available supply.

906 (2) The total available Class 1 supply shall be divided by the Class 1
907 Water contractual commitments, the quotient thus obtained being herein referred to as the
908 Class 1 apportionment coefficient.

909 (3) The total quantity of Class 1 Water under Article 3 of this Contract
910 shall be multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of
911 Class 1 Water required to be delivered by the Contracting Officer to the Contractor for the
912 respective Year, but in no event shall such amount exceed the total quantity of Class 1 Water
913 specified in subdivision (a) of Article 3 of this Contract.

914 (e) If the Contracting Officer determines there is less than the quantity of
915 Class 2 Water which the Contractor otherwise would be entitled to receive pursuant to Article 3
916 of this Contract, the quantity of Class 2 Water which shall be furnished to the Contractor by the
917 Contracting Officer will be determined in the manner set forth in paragraphs (1), (2), and (3), of

918 subdivision (d) of this Article of this Contract substituting the term “Class 2” for the term “Class
919 1.”

920 (f) In the event that in any Year there is made available to the Contractor, by
921 reason of any shortage or apportionment as provided in subdivisions (a), (d), or (e) of this Article
922 of this Contract, or any discontinuance or reduction of service as set forth in subdivision (b) of
923 Article 12 of this Contract, less than the quantity of water which the Contractor otherwise would
924 be entitled to receive hereunder, there shall be made an adjustment on account of the amounts
925 already paid to the Contracting Officer by the Contractor for Class 1 Water and Class 2 Water
926 for said Year in accordance with Article 11 of this Contract.

927 UNAVOIDABLE GROUNDWATER PERCOLATION

928 14. Omitted.

929 ACREAGE LIMITATION

930 15. (a) The Contractor has paid the Repayment Obligation, and notwithstanding
931 any Additional Capital Obligation that may later be established, the provisions of section 213(a)
932 and (b) of the RRA shall apply to lands in the Contractor’s Service Area, with the effect that
933 acreage limitations, reporting, and Full Cost pricing provisions of the RRA shall no longer apply
934 to lands in the Contractor’s Service Area with respect to Water Delivered pursuant to this
935 Contract. Reclamation will conduct a final water district review for the purpose of determining
936 compliance with the acreage limitations, reporting, and Full Cost pricing provisions of the RRA
937 from the date of the last water district review until the date when payment to Reclamation of the
938 Repayment Obligation was completed.

939 (b) Project Water to which the Contractor is entitled through a separate
940 contract, other than this Contract, that is subject to Federal Reclamation law, may be delivered to
941 lands within the Contractor's Service Area. Notwithstanding any Additional Capital Obligation
942 that may later be established, Project Water Delivered under this Contract may be mixed with
943 Project Water Delivered pursuant to a contract with the United States, other than this Contract, to
944 which acreage limitations, reporting, and the Full Cost pricing provisions of Federal Reclamation
945 law apply without causing the application of the acreage limitations, reporting, and the Full Cost
946 pricing provisions of Federal Reclamation law to the Water Delivered pursuant to this Contract;
947 Provided, The terms and conditions in such other contract shall continue to apply, and if such
948 terms and conditions so require, the lands to receive Project Water under such other contract
949 shall be properly designated by the Contractor and such Project Water is to be delivered in
950 accordance with the RRA including any applicable acreage limitations, reporting, and Full Cost
951 pricing provisions.

952 COMPLIANCE WITH FEDERAL RECLAMATION LAWS

953 16. (a) The parties agree that the delivery of water or the use of Federal facilities
954 pursuant to this Contract is subject to Federal Reclamation law, as amended and supplemented,
955 and the rules and regulations promulgated by the Secretary of the Interior under Federal
956 Reclamation law.

957 (b) The terms of this Contract are subject to the Settlement and the SJRRSA.
958 Nothing in this Contract shall be interpreted to limit or interfere with the full implementation of
959 the Settlement and the SJRRSA.

960 PROTECTION OF WATER AND AIR QUALITY

961 17. (a) Project facilities used to make available and deliver water to the
962 Contractor shall be operated and maintained in the most practical manner to maintain the quality

963 of the water at the highest level possible as determined by the Contracting Officer: *Provided,*
964 *That* the United States does not warrant the quality of the water delivered to the Contractor and is
965 under no obligation to furnish or construct water treatment facilities to maintain or improve the
966 quality of water delivered to the Contractor.

967 (b) The Contractor shall comply with all applicable water and air pollution
968 laws and regulations of the United States and the State of California; and shall obtain all required
969 permits or licenses from the appropriate Federal, State, or local authorities necessary for the
970 delivery of water by the Contractor; and shall be responsible for compliance with all Federal,
971 State, and local water quality standards applicable to surface and subsurface drainage and/or
972 discharges generated through the use of Federal or Contractor facilities or project water provided
973 by the Contractor within the Contractor's Project Water Service Area.

974 (c) This article shall not affect or alter any legal obligations of the Secretary
975 to provide drainage or other discharge services.

976 WATER ACQUIRED BY THE CONTRACTOR
977 OTHER THAN FROM THE UNITED STATES

978 18. (a) Omitted.

979 (b) Notwithstanding any Additional Capital Obligation that may later be
980 established, water or water rights now owned or hereafter acquired by the Contractor other than
981 from the United States pursuant to this Contract and Irrigation Water furnished pursuant to the
982 terms of this Contract may be simultaneously transported through the same distribution facilities
983 of the Contractor without the payment of fees to the United States and without application of
984 Federal Reclamation law to Water Delivered pursuant to this Contract or to lands which receive
985 Water Delivered to Contractor pursuant to this Contract.

986 (c) Water or water rights now owned or hereafter acquired by the Contractor,
987 other than from the United States or adverse to the Project or its contractors (i.e., non-project
988 water), may be stored, conveyed and/or diverted through Project facilities, other than Friant
989 Division Facilities, subject to the completion of appropriate environmental documentation, with

990 the approval of the Contracting Officer and the execution of any contract determined by the
991 Contracting Officer to be necessary, consistent with the following provisions:

992 (1) The Contractor may introduce non-project water into Project
993 facilities and deliver said water to lands within the Contractor's Service Area subject to payment
994 to the United States and/or to any applicable Operating Non-Federal Entity of an appropriate rate
995 as determined by the Contracting Officer. In addition, if electrical power is required to pump
996 non-project water, the Contractor shall be responsible for obtaining the necessary power and
997 paying the necessary charges therefor.

998 (2) Delivery of such non-project water in and through Project facilities
999 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project
1000 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water
1001 available to other Project Contractors; (iii) interfere with the delivery of contractual water
1002 entitlements to any other Project Contractors; (iv) interfere with the physical maintenance of the
1003 Project facilities; or (v) result in the United States incurring any liability or unreimbursed costs
1004 or expenses thereby.

1005 (3) Neither the United States nor the Operating Non-Federal Entity
1006 shall be responsible for control, care or distribution of the non-project water before it is
1007 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases
1008 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and
1009 their respective officers, agents, and employees, from any claim for damage to persons or

1010 property, direct or indirect, resulting from Contractor's diversion or extraction of non-project
1011 water from any source.

1012 (4) Diversion of such non-project water into Project facilities shall be
1013 consistent with all applicable laws, and if involving groundwater, consistent with any
1014 groundwater management plan for the area from which it was extracted.

1015 (5) After Project purposes are met, as determined by the Contracting
1016 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity
1017 of the facilities declared to be available by the Contracting Officer for conveyance and
1018 transportation of non-project water prior to any such remaining capacity being made available to
1019 non-project contractors.

1020 (d) Non-project water may be stored, conveyed and/or diverted through Friant
1021 Division Facilities, subject to the prior completion of appropriate environmental documentation
1022 and approval of the Contracting Officer without execution of a separate contract, consistent with
1023 subdivisions (c)(1) through (c)(5) of this Article and any other condition determined to be
1024 appropriate by the Contracting Officer.

1025 OPINIONS AND DETERMINATIONS

1026 19. (a) Where the terms of this Contract provide for actions to be based upon the
1027 opinion or determination of either party to this Contract, said terms shall not be construed as
1028 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
1029 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
1030 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,

1031 or unreasonable opinion or determination. Each opinion or determination by either party shall be
1032 provided in a timely manner. Nothing in this Article of this Contract is intended to or shall affect
1033 or alter the standard of judicial review applicable under Federal law to any opinion or
1034 determination implementing a specific provision of Federal law embodied in statute or
1035 regulation.

1036 (b) The Contracting Officer shall have the right to make determinations
1037 necessary to administer this Contract that are consistent with the provisions of this Contract, the
1038 laws of the United States and the State of California, and the rules and regulations promulgated
1039 by the Secretary. Such determinations shall be made in consultation with the Contractor to the
1040 extent reasonably practicable.

1041 COORDINATION AND COOPERATION

1042 20. (a) In order to further their mutual goals and objectives, the Contracting
1043 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
1044 with other affected Project Contractors, in order to improve the operation and management of the
1045 Project. The communication, coordination, and cooperation regarding operations and
1046 management shall include, but not limited to, any action which will or may materially affect the
1047 quantity or quality of Project Water supply, the allocation of Project Water supply, and Project
1048 financial matters including, but not limited to, budget issues. The communication, coordination,
1049 and cooperation provided for hereunder shall extend to all provisions of this Contract. Each
1050 party shall retain exclusive decision making authority for all actions, opinions, and
1051 determinations to be made by the respective party.

1052 (b) It is the intent of the Secretary to improve water supply reliability. To
1053 carry out this intent:

1054 (1) The Contracting Officer will, at the request of the Contractor,
1055 assist in the development of integrated resource management plans for the Contractor. Further,
1056 the Contracting Officer will, as appropriate, seek authorizations for implementation of
1057 partnerships to improve water supply, water quality, and reliability.

1058 (2) The Secretary will, as appropriate, pursue program and project
1059 implementation and authorization in coordination with Project Contractors to improve the water
1060 supply, water quality, and reliability of the Project for all Project purposes.

1061 (3) The Secretary will coordinate with Project Contractors and the
1062 State of California to seek improved water resource management.

1063 (4) The Secretary will coordinate actions of agencies within the
1064 Department of the Interior that may impact the availability of water for Project purposes.

1065 (5) The Contracting Officer shall periodically, but not less than
1066 annually, hold division level meetings to discuss Project operations, division level water
1067 management activities, and other issues as appropriate.

1068 (c) Without limiting the contractual obligations of the Contracting Officer
1069 hereunder, nothing in this Contract shall be construed to limit or constrain the Contracting
1070 Officer's ability to communicate, coordinate, and cooperate with the Contractor or other
1071 interested stakeholders or to make decisions in a timely fashion as needed to protect health,

1072 safety, physical integrity of structures or facilities, or the Contracting Officer's ability to comply
1073 with applicable laws.

1074 CHARGES FOR DELINQUENT PAYMENTS

1075 21. (a) The Contractor shall be subject to interest, administrative and penalty
1076 charges on delinquent installments or payments. When a payment is not received by the due
1077 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
1078 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an
1079 administrative charge to cover additional costs of billing and processing the delinquent payment.
1080 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional
1081 penalty charge of six (6) percent per year for each day the payment is delinquent beyond the due
1082 date. Further, the Contractor shall pay any fees incurred for debt collection services associated
1083 with a delinquent payment.

1084 (b) The interest charge rate shall be the greater of the rate prescribed quarterly
1085 in the Federal Register by the Department of the Treasury for application to overdue payments,
1086 or the interest rate of one-half of one (0.5) percent per month prescribed by Section 6 of the
1087 Reclamation Project Act of 1939 (Public Law 76-260). The interest charge rate shall be
1088 determined as of the due date and remain fixed for the duration of the delinquent period.

1089 (c) When a partial payment on a delinquent account is received, the amount
1090 received shall be applied, first to the penalty, second to the administrative charges, third to the
1091 accrued interest, and finally to the overdue payment.

1092 EQUAL EMPLOYMENT OPPORTUNITY

1093 22. During the performance of this Contract, the Contractor agrees as follows:

1094 (a) The Contractor will not discriminate against any employee or applicant for
1095 employment because of race, color, religion, sex, disability, or national origin. The Contractor
1096 will take affirmative action to ensure that applicants are employed, and that employees are
1097 treated during employment, without regard to their race, color, religion, sex, disability, or
1098 national origin. Such action shall include, but not be limited to the following: employment,
1099 upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination;
1100 rates of pay or other forms of compensation; and selection for training, including apprenticeship.
1101 The Contractor agrees to post in conspicuous places, available to employees and applicants for
1102 employment, notices to be provided by the Contracting Officer setting forth the provisions of this
1103 nondiscrimination clause.

1104 (b) The Contractor will, in all solicitations or advertisements for employees
1105 placed by or on behalf of the Contractor, state that all qualified applicants will receive

1106 consideration for employment without regard to race, color, religion, sex, disability, or national
1107 origin.

1108 (c) The Contractor will send to each labor union or representative of workers
1109 with which it has a collective bargaining agreement or other contract or understanding, a notice,
1110 to be provided by the Contracting Officer, advising the labor union or workers' representative of
1111 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,
1112 1965, and shall post copies of the notice in conspicuous places available to employees and
1113 applicants for employment.

1114 (d) The Contractor will comply with all provisions of Executive Order No.
1115 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary
1116 of Labor.

1117 (e) The Contractor will furnish all information and reports required by
1118 Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the
1119 Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and
1120 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to
1121 ascertain compliance with such rules, regulations, and orders.

1122 (f) In the event of the Contractor's noncompliance with the nondiscrimination
1123 clauses of this contract or with any of such rules, regulations, or orders, this contract may be
1124 canceled, terminated or suspended in whole or in part and the Contractor may be declared
1125 ineligible for further Government contracts in accordance with procedures authorized in
1126 Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and
1127 remedies invoked as provided in Executive Order 11246 of September 24, 1965 or by rule,
1128 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

1129 (g) The Contractor will include the provisions of paragraphs (1) through (7) in
1130 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
1131 Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24,
1132 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor
1133 will take such action with respect to any subcontract or purchase order as may be directed by the
1134 Secretary of Labor as a means of enforcing such provisions, including sanctions for
1135 noncompliance: *Provided, however,* that in the event the Contractor becomes involved in, or is
1136 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
1137 Contractor may request the United States to enter into such litigation to protect the interests of
1138 the United States.

1139 GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

1140 23. (a) The obligation of the Contractor to pay the United States as provided in
1141 this Contract is a general obligation of the Contractor notwithstanding the manner in which the

1142 obligation may be distributed among the Contractor's water users and notwithstanding the
1143 default of individual water users in their obligations to the Contractor.

1144 (b) The payment of charges becoming due hereunder is a condition precedent
1145 to receiving benefits under this Contract. The United States shall not make water available to the
1146 Contractor through Project facilities during any period in which the Contractor may be in arrears
1147 in the advance payment of water rates due the United States. The Contractor shall not furnish
1148 water made available pursuant to this Contract for lands or parties which are in arrears in the
1149 advance payment of water rates levied or established by the Contractor.

1150 (c) With respect to subdivision (b) of this Article of this Contract, the
1151 Contractor shall have no obligation to require advance payment for water rates which it levies.

1152 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

1153 24. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
1154 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
1155 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
1156 laws, as well as with their respective implementing regulations and guidelines imposed by the
1157 U.S. Department of the Interior and/or Bureau of Reclamation.

1158 (b) These statutes require that no person in the United States shall, on the
1159 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
1160 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
1161 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the
1162 Contractor agrees to immediately take any measures necessary to implement this obligation,
1163 including permitting officials of the United States to inspect premises, programs, and documents.

1164 (c) The Contractor makes this agreement in consideration of and for the
1165 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other
1166 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
1167 Reclamation, including installment payments after such date on account of arrangements for
1168 Federal financial assistance which were approved before such date. The Contractor recognizes
1169 and agrees that such Federal assistance will be extended in reliance on the representations and
1170 agreements made in this Article, and that the United States reserves the right to seek judicial
1171 enforcement thereof.

1172 PRIVACY ACT COMPLIANCE

1173 25. Omitted.

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1174
1175 26. In addition to all other payments to be made by the Contractor pursuant to this
1176 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a
1177 bill and detailed statement submitted by the Contracting Officer to the Contractor for such
1178 specific items of direct cost incurred by the United States for work requested by the Contractor
1179 associated with this Contract plus indirect costs in accordance with applicable Bureau of
1180 Reclamation policies and procedures. All such amounts referred to in this Article of this
1181 Contract shall not exceed the amount agreed to in writing in advance by the Contractor. This
1182 Article of this Contract shall not apply to costs for routine contract administration.

WATER CONSERVATION

1183
1184 27. (a) Prior to the delivery of water provided from or conveyed through
1185 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
1186 shall be implementing an effective water conservation and efficiency program based on the
1187 Contractor's water conservation plan that has been determined by the Contracting Officer to
1188 meet the conservation and efficiency criteria for evaluating water conservation plans established
1189 under Federal law. The water conservation and efficiency program shall contain definite water
1190 conservation objectives, appropriate economically feasible water conservation measures, and
1191 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
1192 Contract shall be contingent upon the Contractor's continued implementation of such water
1193 conservation program. In the event the Contractor's water conservation plan or any revised
1194 water conservation plan completed pursuant to subdivision (d) of this Article of this Contract

1195 have not yet been determined by the Contracting Officer to meet such criteria, due to
1196 circumstances which the Contracting Officer determines are beyond the control of the
1197 Contractor, water deliveries shall be made under this Contract so long as the Contractor
1198 diligently works with the Contracting Officer to obtain such determination at the earliest
1199 practicable date, and thereafter the Contractor immediately begins implementing its water
1200 conservation and efficiency program in accordance with the time schedules therein.

1201 (b) Should the amount of M&I Water Delivered pursuant to subdivision (a) of
1202 Article 3 of this Contract equal or exceed two thousand (2,000) acre-feet per Year, the
1203 Contractor shall implement the Best Management Practices identified by the time frames issued
1204 by the California Urban Water Conservation Council for such M&I Water unless any such
1205 practice is determined by the Contracting Officer to be inappropriate for the Contractor.

1206 (c) The Contractor shall submit to the Contracting Officer a report on the
1207 status of its implementation of the water conservation plan on the reporting dates specified in the
1208 then-existing conservation and efficiency criteria established under Federal law.

1209 (d) At five (5) -year intervals, the Contractor shall revise its water
1210 conservation plan to reflect the then-existing conservation and efficiency criteria for evaluating
1211 water conservation plans established under Federal law and submit such revised water
1212 management plan to the Contracting Officer for review and evaluation. The Contracting Officer
1213 will then determine if the water conservation plan meets Reclamation's then-existing
1214 conservation and efficiency criteria for evaluating water conservation plans established under
1215 Federal law.

1216 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1217 shall be described in the Contractor's water conservation plan.

1218 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1219 28. Except as specifically provided in Article 18 of this Contract, the provisions of
1220 this Contract shall not be applicable to or affect non-project water or water rights now owned or
1221 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
1222 Area. Any such water shall not be considered Project Water under this Contract. In addition,
1223 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or
1224 any water user within the Contractor's Service Area acquires or has available under any other
1225 contract pursuant to Federal Reclamation law.

1226 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1227 29. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1228 and responsibility for funding a portion of the costs of such O&M, have been transferred to the
1229 Operating Non-Federal Entity by separate agreement between the United States and the
1230 Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the
1231 rights or obligations of the Contractor or the United States hereunder.

1232 (b) The Contracting Officer has previously notified the Contractor in writing
1233 that the O&M of a portion of the Project facilities which serve the Contractor has been
1234 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly
1235 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer
1236 under the terms and conditions of the separate agreement between the United States and the

1237 Operating Non-Federal Entity described in subdivision (a) of this Article of this Contract, all
1238 rates, charges or assessments of any kind, including any assessment for reserve funds, which the
1239 Operating Non-Federal Entity or such successor determines, sets or establishes for (i) the O&M
1240 of the portion of the Project facilities operated and maintained by the Operating Non-Federal
1241 Entity or such successor, or (ii) the Friant Division's share of the operation, maintenance and
1242 replacement costs for physical works and appurtenances associated with the Tracy Pumping
1243 Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal share of the
1244 O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use conveyance
1245 and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity
1246 or such successor shall not relieve the Contractor of its obligation to pay directly to the United
1247 States the Contractor's share of the Project Rates and Charges, except to the extent the Operating
1248 Non-Federal Entity collects payments on behalf of the United States in accordance with the
1249 separate agreement identified in subdivision (a) of this Article of this Contract.

1250 (c) For so long as the O&M of any portion of the Project facilities serving the
1251 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1252 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1253 Contract representing the cost associated with the activity being performed by the Operating
1254 Non-Federal Entity or its successor.

1255 (d) In the event the O&M of the Project facilities operated and maintained by
1256 the Operating Non-Federal Entity is re-assumed by the United States during the term of this
1257 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the

1258 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1259 Contractor for Project Water under this Contract representing the O&M costs of the portion of
1260 such Project facilities which have been re-assumed. The Contractor shall, thereafter, in the
1261 absence of written notification from the Contracting Officer to the contrary, pay the Rates and
1262 Charges specified in the revised Exhibit "B" directly to the United States in compliance with
1263 Article 7 of this Contract.

1264 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1265 30. The expenditure or advance of any money or the performance of any obligation of
1266 the United States under this Contract shall be contingent upon appropriation or allotment of
1267 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1268 obligations under this Contract. No liability shall accrue to the United States in case funds are
1269 not appropriated or allotted.

1270 BOOKS, RECORDS, AND REPORTS

1271 31. (a) The Contractor shall establish and maintain accounts and other books and
1272 records pertaining to administration of the terms and conditions of this Contract, including: the
1273 Contractor's financial transactions, water supply data, and Project land and right-of-way
1274 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1275 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1276 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1277 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1278 Contract shall have the right during office hours to examine and make copies of the other party's
1279 books and records relating to matters covered by this Contract.

1280 (b) Notwithstanding the provisions of subdivision (a) of this Article of this
1281 Contract, no books, records, or other information shall be requested from the Contractor by the
1282 Contracting Officer unless such books, records, or information are reasonably related to the
1283 administration or performance of this Contract. Any such request shall allow the Contractor a
1284 reasonable period of time within which to provide the requested books, records, or information.

1285 (c) At such time as the Contractor provides information to the Contracting
1286 Officer pursuant to subdivision (a) of this Article of this Contract, a copy of such information
1287 shall be provided to the Operating Non-Federal Entity.

1288 ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

1289 32. (a) The provisions of this Contract shall apply to and bind the successors and
1290 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1291 therein shall be valid until approved in writing by the Contracting Officer.

1292 (b) The assignment of any right or interest in this Contract by either party
1293 shall not interfere with the rights or obligations of the other party to this Contract absent the
1294 written concurrence of said other party.

1295 (c) The Contracting Officer shall not unreasonably condition or withhold
1296 approval of any proposed assignment.

1297 SEVERABILITY

1298 33. In the event that a person or entity who is neither (i) a party to a Project contract,
1299 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor
1300 (iii) an association or other form of organization whose primary function is to represent parties to
1301 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1302 enforceability of a provision included in this Contract and said person, entity, association, or
1303 organization obtains a final court decision holding that such provision is legally invalid or
1304 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1305 the parties to this Contract shall use their best efforts to (i) within thirty (30) days of the date of
1306 such final court decision identify by mutual agreement the provisions in this Contract which

1307 must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate
1308 revision(s). The time periods specified above may be extended by mutual agreement of the
1309 parties. Pending the completion of the actions designated above, to the extent it can do so
1310 without violating any applicable provisions of law, the United States shall continue to make the
1311 quantities of Project Water specified in this Contract available to the Contractor pursuant to the
1312 provisions of this Contract which were not found to be legally invalid or unenforceable in the
1313 final court decision.

1314 RESOLUTION OF DISPUTES

1315 34. Should any dispute arise concerning any provisions of this Contract, or the
1316 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1317 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1318 Officer referring any matter to Department of Justice, the party shall provide to the other party
1319 thirty (30) days written notice of the intent to take such action; Provided, That such notice shall
1320 not be required where a delay in commencing an action would prejudice the interests of the party
1321 that intends to file suit. During the thirty (30) day notice period, the Contractor and the
1322 Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as
1323 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the
1324 Contractor or the United States may have.

1325 OFFICIALS NOT TO BENEFIT

1326 35. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1327 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1328 manner as other water users or landowners.

CHANGES IN CONTRACTOR'S SERVICE AREA

1329
1330 36. (a) While this Contract is in effect, no change may be made in the
1331 Contractor's Service Area or boundaries, by inclusion or exclusion of lands, dissolution,
1332 consolidation, merger, or otherwise, except upon the Contracting Officer's written consent.

1333 (b) Within thirty (30) days of receipt of a request for such a change, the
1334 Contracting Officer will notify the Contractor of any additional information required by the
1335 Contracting Officer for processing said request, and both parties will meet to establish a mutually
1336 agreeable schedule for timely completion of the process. Such process will analyze whether the
1337 proposed change is likely to: (i) result in the use of Project Water contrary to the terms of this
1338 Contract; (ii) impair the ability of the Contractor to pay for Project Water furnished under this
1339 Contract or to pay for any Federally-constructed facilities for which the Contractor is
1340 responsible; and (iii) have an impact on any Project Water rights applications, permits, or
1341 licenses. In addition, the Contracting Officer shall comply with the National Environmental
1342 Policy Act and the Endangered Species Act. The Contractor will be responsible for all costs
1343 incurred by the Contracting Officer in this process, and such costs will be paid in accordance
1344 with Article 26 of this Contract.

FEDERAL LAWS

1345
1346 37. By entering into this Contract, the Contractor does not waive its rights to contest
1347 the validity or application in connection with the performance of the terms and conditions of this
1348 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1349 the terms and conditions of this Contract unless and until relief from application of such Federal

1350 law or regulation to the implementing provision of the Contract is granted by a court of
1351 competent jurisdiction.

1352 EMERGENCY RESERVE FUND

1353 38. The Contractor and Contracting Officer acknowledge that the requirements to
1354 establish and maintain a minimum reserve fund account to finance extraordinary O&M costs of
1355 Friant Division Facilities is and will continue to be administered under Contract No.
1356 8-07-20-X0356 titled Agreement To Transfer The Operation, Maintenance And Replacement
1357 And Certain Financial And Administrative Activities Related To The Friant-Kern Canal And
1358 Associated Works, dated March 1, 1998 as amended, supplemented, assigned, or renewed.

1359 MEDIUM FOR TRANSMITTING PAYMENT

1360 39. (a) All payments from the Contractor to the United States under this contract
1361 shall be by the medium requested by the United States on or before the date payment is due. The
1362 required method of payment may include checks, wire transfers, or other types of payment
1363 specified by the United States.

1364 (b) Upon execution of the contract, the Contractor shall furnish the
1365 Contracting Officer with the Contractor's taxpayer's identification number (TIN). The purpose
1366 for requiring the Contractor's TIN is for collecting and reporting any delinquent amounts arising
1367 out of the Contractor's relationship with the United States.

1368 NOTICES

1369 40. Any notice, demand, or request authorized or required by this Contract shall be
1370 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1371 delivered to the Area Manager, South-Central California Area Office, 1243 "N" Street, Fresno,
1372 California 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered
1373 to the Board of Directors of Tulare Irrigation District, 6826 Avenue 240, Tulare, California
1374 93274. The designation of the addressee or the address may be changed by notice given in the
1375 same manner as provided in this Article of this Contract for other notices.

1376

CONFIRMATION OF CONTRACT

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41. The Contractor, after the execution of this Contract, shall promptly provide to the Contracting Officer a decree of a court of competent jurisdiction of the State of California, confirming the execution of this Contract. The Contractor shall furnish the United States a certified copy of the final decree, the validation proceedings, and all pertinent supporting records of the court approving and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

1383.

CONTRACT DRAFTING CONSIDERATIONS

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1389

42. Articles 1 through 15, subdivision (c) of Article 16, Articles 18 through 20, subdivision (c) of Article 23, Articles 26 through 29, subdivisions (b) and (c) of Article 31, subdivisions (b) and (c) of Article 32, Articles 33 through 34, subdivision (b) of Article 36, and Articles 37 through 38 of this Contract have been drafted, negotiated, and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this Contract pertains, and no one party shall be considered to have drafted the stated Articles.

Contract No. 175r-2485D

1390 **IN WITNESS WHEREOF**, the parties hereto have executed this Contract as of the day
1391 **and year first above written.**

TULARE IRRIGATION DISTRICT

RESOLUTION NO. 10-09

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

WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake) and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division Facilities, which will be used in part for the furnishing of Project Water to the Tulare Irrigation District (“District”); and

WHEREAS, the United States and the District have, continuously, since October 18, 1950, been parties to a contract, as amended and as renewed periodically, providing for water service from the Friant Division Facilities to the District (the “Existing Contract”); and

WHEREAS, Federal law, and the Existing Contract in accordance with Article 2(d) thereof, provide for conversion to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939 which conversion, upon District’s payment of Contractor’s share of the remaining amount of Project construction costs, would grant the District a permanent right to a stated share or quantity of Project Water, relieve its landowners of the acreage limitation and full cost pricing provisions of Reclamation Law; and relieve the District of tiered pricing provisions;

WHEREAS, as a result of litigation entitled “Natural Resources Defense Council, et al. v Kirk Rogers, et al.” No. CIV-S-88-1658LLK/GGH, certain Friant Division contractors entered into a Stipulation of Settlement dated September 13, 2006 (the “Settlement”), which Settlement was subsequently confirmed and implemented through Title X, Subtitle A, of the Act of March 30, 2009 (123 Stat. 1349), known as the San Joaquin River Restoration Settlement Act and hereinafter referred to as “SJRRSA”; and

WHEREAS, the SJRRSA authorizes and directs the Secretary to convert the Existing Contract to a repayment contract under subsection (d) of Section 9 of the Act of August 4, 1939, no later than December 31, 2010, under mutually agreeable terms and conditions; and

WHEREAS, the District and United States have concluded negotiations on all substantive terms and conditions of a repayment contract entitled “Contract between the United States and District for Project Water Service and Facilities Repayment,” a true and correct copy of which is attached hereto as Exhibit A and incorporated herein by this reference (“Repayment Contract”); and

WHEREAS, consistent with the provisions of the SJRRSA and other laws, the Repayment Contract includes provisions improving water management, including provisions expediting water transfers by the District;

WHEREAS, upon completing accelerated repayment of its allocated share of capital obligations as required therein, the Repayment Contract provides that: (i) the District is vested with the permanent right to a stated share or quantity of water from the Project for beneficial use by the District; (ii) its landholders will be relieved of the acreage limitation and full cost pricing provisions of Reclamation Law; and (iii) the District will be relieved of tiered pricing provisions; and

WHEREAS, the District intends to finance its capital cost repayment obligations under the Repayment Contract through issuance of bonds or other form of indebtedness; and

WHEREAS, the Repayment Contract requires that the District provide the United States with a final decree of a court of competent jurisdiction of the State of California confirming the validity of the Repayment Contract; and

WHEREAS, the Board of Directors has reviewed the Repayment Contract and finds that conversion from the Existing Contract to the Repayment Contract is in the best interests of the District and its landowners, and that the Repayment Contract should be executed in substantially the form attached as Exhibit A hereto, which execution shall occur upon the completion of proceedings necessary

to validate the Repayment Contract and upon obtaining the financing sufficient for retiring its repayment obligations under terms satisfactory to the Board of Directors; and

WHEREAS, federal law requires that the Repayment Obligation (as defined in the Repayment Contract) be determined according to the Treasury Rate (as defined in the Repayment Contract) on October 1, 2010, and that Exhibit Nos. C1, C2 and D of the Repayment Contract, which set forth the Repayment Obligation of the District, are based upon the current Treasury Rate and that adjustments to the Treasury Rate could occur before October 1, 2010, and such adjustment will require corresponding adjustment of the Repayment Obligation currently described in Exhibit Nos. C1, C2 and D prior to execution of the Repayment Contract.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors:

1. Determines that the foregoing recitals and findings are true and correct, and incorporates them herein by this reference; and
2. Approves and authorizes execution of the Repayment Contract by the President and Secretary in substantially the form attached hereto as Exhibit A, which execution shall be subject to and occur upon: (i) the successful completion of proceedings necessary to validate the Repayment Contract; (ii) the final determination of the Treasury Rate on October 1, 2010 and the resulting final determination of the Repayment Obligation set forth in Exhibit Nos. C1, C2 and D of the Repayment Contract; and (iii) the District obtaining financing of its repayment obligations under terms satisfactory to the Board of Directors; and
3. Authorizes and directs the District's legal counsel to initiate and prosecute a validation proceeding pursuant to Code of Civil Procedure section 860, et seq., as necessary to confirm the validity of the Repayment Contract, and to do all things necessary and appropriate to prosecute said action; and
4. Authorizes and directs the District's Secretary to provide certified copies of the foregoing resolution to the Bureau of Reclamation; and
5. Authorizes and directs the District's officers, staff and consultants to take all additional actions they deem necessary or appropriate to facilitate the conversion to the Repayment Contract and obtain appropriate financing of the Repayment Obligation; and

BE IT FURTHER RESOLVED that until the Repayment Contract in substantially the form as Exhibit A is executed by the District and the United States, the Existing Contract shall continue in full force and effect in accordance with its terms.

THE FOREGOING RESOLUTION WAS PASSED AND ADOPTED upon motion of Director Borges, and seconded by Director Martin, at a special meeting of the Board of Directors of the Tulare Irrigation District held on this 4th day of June, 2010 by the following vote:

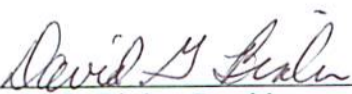
Ayes: Directors Bixler, Borges, Martin, Thomas and Rogers

Noes: None

Abstain: None

Absent: None

ATTEST:


David G. Bixler, President



CERTIFICATE OF SECRETARY

The undersigned hereby certifies that he is the Secretary of Tulare Irrigation District and that its Board of Directors adopted the attached resolution at a special board meeting, held on the 4th day of June, 2010, at which meeting a quorum of the Board of Directors was at all times present and acting.

IN WITNESS WHEREOF, I have set my hand this 4th day of June, 2010.



J. Paul Hendrix, Secretary
TULARE IRRIGATION DISTRICT