

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

Contract No.
6-07-20-W1372

CONTRACT BETWEEN THE UNITED STATES
AND
SACRAMENTO COUNTY WATER AGENCY
PROVIDING FOR PROJECT WATER SERVICE

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The foregoing is a correct copy of Board of Supervisors Material, which the original is on file with the Office of the Board of Supervisors, Sacramento County, California

Dated April 15, 1999
Clerk of said Board
of Supervisors

By o. J. Platt
Deputy Clerk

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5 CONTRACT BETWEEN THE UNITED STATES
6 AND
7 SACRAMENTO COUNTY WATER AGENCY
8 PROVIDING FOR PROJECT WATER SERVICE

9 THIS CONTRACT, made this 8th day of April, 1999, in pursuance
10 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary
11 thereto, including, but not limited to, the acts of August 26, 1937 (50 Stat. 844), as amended and
12 supplemented; August 4, 1939 (53 Stat. 1187), as amended and supplemented; June 21, 1963 (77
13 Stat. 68); October 12, 1982 (96 Stat. 1262), as amended; November 5, 1990 (104 Stat. 2074) and
14 Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred
15 to as the Federal Reclamation law between THE UNITED STATES OF AMERICA, hereinafter
16 referred to as the United States, and SACRAMENTO COUNTY WATER AGENCY, hereinafter
17 referred to as the Contractor, a public agency of the State of California, duly organized, existing,
18 and acting pursuant to the laws thereof, with its principal place of business in Sacramento,
19 California;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 WHEREAS, the United States has constructed and is operating the Central Valley
23 Project, California, for diversion, storage, carriage, and distribution of waters of the Sacramento,
24 American, Trinity, and San Joaquin Rivers and their tributaries for flood control, irrigation,

1 municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation
2 and distribution of electric energy, salinity control, navigation and other beneficial uses; and

3 WHEREAS, the United States constructed Folsom Dam and Reservoir and
4 appurtenant facilities, hereinafter collectively referred to as the Project facilities, which will be
5 used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract;
6 and

7 WHEREAS, Section 206(b) of P. L. 101-514 (104 Stat. 2074) authorized and
8 directed the Secretary of the Interior to enter into a municipal and industrial (M&I) water supply
9 contract with the Contractor, not to exceed 22,000 acre-feet annually, to meet the immediate
10 needs of Sacramento County, and as the first phase of a contracting program to meet the
11 long-term water supply needs of Sacramento County; and

12 WHEREAS, Section 206(b) of P. L. 101-514 provides that annual quantities delivered
13 under this Contract will be determined by the Contracting Officer based upon the quantity of
14 water actually needed in the Sacramento County Water Agency service area, after considering
15 factors specified in the statute; and

16 WHEREAS, this Contract is exempt from the general prohibition on new Central
17 Valley Project contracts contained in Section 3404 of the Central Valley Project Improvement
18 Act (CVPIA); and

19 WHEREAS, the Contractor has requested that the United States enter into this
20 Contract pursuant to Federal Reclamation law and the laws of the State of California for water
21 service from the Central Valley Project; and

1 WHEREAS, the Contracting Officer has determined that the Contractor has the
2 capability to fully utilize for reasonable and beneficial use, or shown projected future reasonable
3 and beneficial use for, the quantity of Project Water to be made available to it pursuant to this
4 Contract; and

5 WHEREAS, the United States intends to negotiate long-term renewal water service
6 contracts with Central Valley Project contractors, who have interim renewal water service
7 contracts pursuant to Section 3404(c)(1) of the CVPIA, and any CVP contractor, who desires
8 early renewal, following completion of appropriate environmental documentation, including a
9 programmatic environmental impact statement ("PEIS") pursuant to Section 3409 of the CVPIA;
10 and

11 WHEREAS, the Contractor recognizes that the United States intends that all
12 CVP-wide Terms and Conditions will be included in this and all new, renewed, or amended
13 interim renewal or long-term water service contracts; and

14 WHEREAS, the Contractor recognizes amendments to this Contract may be necessary
15 to include such new, or revised, CVP-wide Terms and Conditions; and

16 WHEREAS, the parties to this Contract have agreed to replace this Contract with a
17 long-term contract that will be negotiated at the same or approximately same time that the
18 Contracting Officer negotiates long-term water service contracts to replace the interim renewal
19 water service contracts referred to above; and

20 WHEREAS, the Contractor has requested authorization to enter into a subcontract
21 with the City of Folsom, hereinafter referred to as "Subcontractor," for the resale and distribution
22 of up to 7,000 acre-feet of Project Water made available under this Contract to be diverted at

1 Folsom Reservoir for delivery to the Subcontractor's water treatment plant for use within the
2 Contract Use Area; and

3 WHEREAS, the Contract Use Area provided in this Contract includes areas that on
4 the date of execution of this Contract receive water from a variety of sources, including, but not
5 limited to, ground water from private wells, surface supplies under privately held rights, public
6 utilities, public agencies other than the Contractor, water service from the Contractor provided
7 exclusively through wells operated by the Contractor, and water service from the Contractor
8 provided through a combination of wells and interim surface supplies; and

9 WHEREAS, the Contract Use Area provided in this Contract also includes areas to
10 which Project Water or other surface water may be provided by the Contractor in the future; and

11 WHEREAS, recognizing the physical, legal, and jurisdictional circumstances that exist
12 within the Contract Use Area, the parties have agreed to structure this Contract so that areas
13 within the Contract Use Area will become subject to certain terms and conditions of this Contract
14 at such time as such areas receive water service from the Contractor consisting of Project Water
15 or other surface water.

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

18 DEFINITIONS

19 1. When used herein unless otherwise distinctly expressed, or manifestly
20 incompatible with the intent hereof, the term:

21 (a) "Calendar Year" shall mean the period January 1 through
22 December 31, both dates inclusive;

1 (b) "Charges" shall mean the payments in addition to the Rates
2 determined annually by the Contracting Officer, required by the Federal Reclamation
3 law, including Section 3407 of the CVPIA;

4 (c) "Contract Use Area" shall mean the area to which the Contractor
5 is permitted, subject to Article 5(c), to provide Project Water obtained under this Contract.
6 As of the date of this Contract, the Contract Use Area is the area identified in Exhibit B-1 as
7 "Zone 40" and "Zone 40 Expansion Area" and the "City of Folsom East Area." The Contract
8 Use Area may be revised by the Contractor without amending this Contract if such revisions
9 are approved in writing by the Contracting Officer.

10 (d) "Contractor's Service Area" shall mean all areas or locations within the
11 Contract Use Area that receive surface water service or commingled ground water and
12 surface water service from the Contractor or Subcontractor. For the purposes of subdivisions
13 (b)(1) and (b)(2) of Article 3, the Contractor's Service Area shall include any area or location
14 at which the Contractor intends to provide surface water service or commingled ground water
15 and surface water service in a Year for which a determination under subdivisions (b)(1) or
16 (b)(2) of Article 3 is made.

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

19 (f) "CVP-wide Terms and Conditions" shall mean those terms and
20 conditions that are negotiated in public sessions with all appropriate CVP contractors, that

1 are applicable to all such contracts receiving water from the Central Valley Project, Unless
2 such terms are determined by the Contracting Officer to not be applicable;

3 (g) "Delivered Water" shall mean Project Water made available to
4 the Contractor and diverted at the point(s) of delivery approved by the Contracting
5 Officer;

6 (h) "M&I Water" shall mean all uses of Project Water for other than
7 the commercial production of agricultural crops or livestock, including domestic use
8 incidental thereto;

9 (i) "M&I Full Cost Rate" shall mean the annual rate, which as determined
10 by the Secretary, shall amortize the expenditures for construction allocable to Project M&I
11 facilities in service, including all operation and maintenance (O&M), O&M deficits funded,
12 less payments, over such periods as may be required under Federal Reclamation law or
13 applicable contract provisions, with interest on both accruing from the dates such costs were
14 first incurred plus the applicable rate for the O&M of such Project facilities;

15 (j) "O&M" shall mean normal and reasonable care, control, operation,
16 repair, replacement, and maintenance of Project facilities;

17 (k) "Operating Non-Federal Entity" shall mean a Non-Federal entity
18 which has the obligation to operate and maintain all or that portion of the American
19 River Division facilities utilized for delivery of Project Water to the Contractor pursuant to an
20 agreement with the United States;

21 (l) "Project" shall mean the Central Valley Project owned by the
22 United States and operated by the Department of the Interior, Bureau of Reclamation;

1 (m) "Project Water" shall mean all water that is developed, diverted,
2 stored, or delivered by the United States in accordance with the statutes authorizing
3 the Project and in accordance with the terms and conditions of applicable water rights'
4 permits and licenses acquired by and/or issued to the United States pursuant to California law;

5 (n) "Rates" shall mean the payments determined annually by the
6 Contracting Officer in accordance with the then current applicable water rate setting policies
7 for the Project;

8 (o) "Secretary" or "Contracting Officer" shall mean the Secretary of
9 the United States Department of the Interior or his duly authorized representative;

10 (p) "Subcontractor's Service Area" shall mean the area identified as
11 Subcontractor's Service Area in Exhibit B-2. The Subcontractor's Service Area may be
12 revised without amending this Contract if such revisions are approved in writing by
13 the Contracting Officer.

14 (q) "Year" shall mean the period from and including March 1 of
15 each Calendar Year through the last day of February of the following Calendar Year;

16 TERM OF CONTRACT - RIGHT TO USE OF WATER

17 2. (a) This Contract shall become effective the date first hereinabove written.
18 This Contract shall be amended, renewed, or terminated as provided in subdivisions (b), (c), and
19 (d) of this Article.

20 (b) This Contract shall remain in effect through the earliest of:

21 (1) The date that is one (1) Year after the effective date of
22 the first long-term renewal contract entered into by the Contracting Officer with

1 another CVP contractor in the American River Division pursuant to Section 3404(c)
2 of the CVPIA; or

3 (2) The date that is one (1) Year after the occurrence of the
4 condition set forth in the first sentence of subdivision (c) of this Article if by such date the
5 Contractor has not entered into an amendment of this Contract as required by subdivision (c)
6 of this Article; or

7 (3) Twenty-five (25) Years from the effective date of this
8 Contract: Provided, That the date in subdivisions (b)(1) and (b)(2) of this Article may be
9 extended if the Contracting Officer determines that good faith efforts have been made by the
10 Contractor to negotiate a new long-term contract by such date or, as applicable, to execute an
11 amendment to this Contract by such date, and shall be extended if the Contracting Officer or
12 Contractor is unable to execute a new long-term contract or, as applicable, an amendment to
13 this Contract by such date by operation of law.

14 (c) If, prior to the time the Contracting Officer enters into the first
15 long-term renewal contract with another CVP contractor, the Contracting Officer enters into
16 initial, amended, or successive interim renewal contracts with CVP contractors pursuant to
17 Section 3404(c) of the CVPIA which contain CVP-wide Terms and Conditions that differ from
18 those in this Contract and from those in the interim contracts in effect on the date of execution of
19 this Contract (other than terms as to duration of the contracts), then this Contract shall be
20 amended prior to the date that is one (1) Year after the date on which the Contracting Officer
21 enters into the first such interim renewal contract. Under such circumstances, the Contractor shall
22 be party to negotiation of new or revised CVP-wide Terms and Conditions, and this Contract
23 shall be amended to include such new or revised CVP-wide Terms and Conditions.

1 (d) At the time the Contracting Officer negotiates long-term renewal
2 contracts with other CVP contractors following completion of the programmatic environmental
3 impact statement (PEIS) required by Section 3409 of the CVPIA, and provided that the
4 Contractor has complied with all the terms and conditions of this Contract, the Contracting
5 Officer and the Contractor shall enter into negotiations for a long-term water service contract to
6 replace this Contract. The Secretary shall, pursuant to the Federal Reclamation law, upon request
7 of the Contractor, enter into a long-term contract for a period of twenty-five (25) Years, and may
8 thereafter renew such long-term contract for successive periods not to exceed twenty-five (25)
9 Years each. If the PEIS has not been completed or cannot serve as the basis for contract renewal
10 before the last possible date on which this Contract can expire, this Contract shall be renewed
11 with the CVP-wide Terms and Conditions in effect at that time.

12 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

13 3. (a) Subject to the provisions set forth in Articles 3(b), 5(c), 11, and 12
14 hereof, and consistent with applicable State water rights, permits, and licenses, the Contractor is
15 entitled to, and the Contracting Officer shall be obligated to make available to the Contractor up
16 to 22,000 acre-feet of Project Water during any Year for municipal and industrial uses in the
17 Contract Use Area. The quantity of Project Water delivered to the Contractor in accordance with
18 subdivision (a) of this Article in any Year shall be scheduled and paid for pursuant to the
19 provisions of Articles 4 and 7 hereof, and shall not exceed the quantity of Project Water the
20 Contractor intends to put to reasonable beneficial use within the Contract Use Area, or sold,
21 transferred, or exchanged, subject to Article 9, during any Year.

(b) (1) Notwithstanding the provisions of subdivision (a) of this Article, as provided in Section 206(b)(1) of P. L. 101-514, the Contracting Officer shall determine, and annual quantities of water delivered under this Contract shall be based upon, the quantity of water actually needed within the Contractor's Service Area, after considering reasonable efforts to: (i) promote full utilization of existing water entitlements within Sacramento County; (ii) implement water conservation and metering programs within the area served by the Contract; and (iii) implement programs to maximize to the extent feasible conjunctive use of surface water and ground water. The Contracting Officer has reviewed the Final Needs Assessment Pertaining to the Sacramento County Water Agency EIS/EIR for Water Supply Contracts under P. L. 101-514 Section 206 (Beak Consultants, Inc., January 1995) (Needs Analysis) and based on that analysis agrees (after considering reasonable efforts to: promote full utilization of existing entitlements within Sacramento County; implement water conservation and metering programs within the area served by the Contract; and implement programs to maximize to the extent feasible the conjunctive use of surface water and ground water) that the quantity of water actually needed by the Contractor within the Contract Use Area exceeds 22,000 acre-feet per annum, although scheduled deliveries may be less than this amount until facilities are completed. The Contractor shall, on or before November 1 of each Year or such other date as the Contractor and Contracting Officer may agree, notify the Contracting Officer of the quantity of water the Contractor believes will actually be needed in the Contractor's Service Area in the succeeding Year. Except as provided

1 in subdivision (b)(2) of this Article, the notice shall be accompanied by an analysis
2 sufficient to demonstrate the basis for the Contractor's notification. The Needs Analysis is
3 sufficient to demonstrate the basis for notification with respect to at least 22,000 acre-feet of
4 water. The Contracting Officer shall review the analysis provided by the Contractor based on
5 any lawful M&I water needs criteria that are then being applied to all CVP M&I contracts.
6 The Contracting Officer shall notify the Contractor in writing of the Contracting Officer's
7 determination of the quantity of water actually needed within the Contractor's Service Area
8 for the following Year. If the determination is that the quantity actually needed is less than the
9 amount identified in the Contractor's notice, the notice of determination from the Contracting
10 Officer shall explain in detail the basis for the Contracting Officer's determination. If the
11 Contracting Officer's written determination is not made within sixty (60) days after the receipt
12 of the notice, the Contractor may schedule the quantity of water specified in the notice subject
13 to the quantity of Project Water available pursuant to Articles 3(a), 4(a), 11, and 12.

14 (2) If the amount of water specified in the notice provided by
15 the Contractor under subdivision (b)(1) of this Article is less than or equal to the amount
16 determined by the Contracting Officer to have been actually needed for a Year prior to the
17 Year for which the notice is submitted, the Contracting Officer's determination shall be
18 deemed to equal the amount specified in the notice: Provided, That if within twenty (20) days
19 of the receipt of the said notice, the Contracting Officer notifies the Contractor in writing that
20 the Contracting Officer has determined that substantial changes in circumstances require the
21 submittal of additional information by the Contractor and explains in detail the basis for such
22

1 determination, the Contractor shall submit the additional information within thirty (30) days or
2 other agreed period, and the procedures in subdivision (b)(1) of this Article apply.

3 (3) The Contracting Officer shall separately determine the quantity
4 of water actually needed in the Contract Use Area within the Subcontractor's Service Area in
5 accordance with the procedures in subdivisions (b)(1) and (b)(2) of this Article, and the
6 annual quantity of water delivered for use by the Subcontractor shall not exceed the amount
7 so determined. Information related to Subcontractor's need shall be provided through the
8 Contractor. The statements in subdivisions (b)(1) and (b)(2) of this Article regarding the
9 Needs Analysis are based on Contractor's need exclusive of any need in the Contract Use Area
10 that is within the Subcontractor's Service Area.

11 (c) Contractor's compliance with Articles 6 and 24 shall be deemed
12 conclusively to constitute reasonable efforts to implement metering and conservation programs,
13 respectively, within the Contractor's Service Area and Subcontractor's Service Area.

14 (d) The Contractor shall utilize the Project Water made available to it
15 pursuant to this Contract in accordance with all applicable requirements of any Biological Opinion
16 addressing the execution of this Contract developed pursuant to Section 7 of the Endangered
17 Species Act of 1973 as amended, and in accordance with environmental documentation as may be
18 required for specific activities.

19 (e) The Contractor shall make reasonable and beneficial use of Project
20 Water or other water furnished pursuant to this Contract. Use of Project Water in a ground-
21 water recharge program shall be permitted under this Contract to the extent that it is recognized

1 as a reasonable and beneficial use of water under California law and is otherwise carried out in
2 accordance with California law.

3 (f) If the Contracting Officer determines that Project Water, or other water
4 available to the Project, can be made available to the Contractor in addition to the quantity of
5 Project Water made available to the Contractor pursuant to subdivision (a) of this Article, the
6 Contracting Officer shall so notify the Contractor. If the Contractor requests the delivery of any
7 quantity of such water, the Contracting Officer shall make such water available to the Contractor
8 in accordance with applicable statutes, regulations, guidelines, and policies.

9 (g) If the Contractor requests permission to reschedule for use during the
10 subsequent Year some or all of the Project Water made available to the Contractor during the
11 current Year or to use, during the current Year, that quantity of Project Water the United States
12 has agreed to make available to the Contractor during the subsequent Year, the Contracting
13 Officer may permit such uses in accordance with applicable statutes, regulations, guidelines, and
14 policies.

15 (h) The Contractor's right pursuant to Federal Reclamation law and
16 applicable State law to the beneficial use of water furnished pursuant to this Contract and any
17 long-term renewal contract, shall not be disturbed so long as the Contractor shall fulfill all of its
18 obligations under this Contract and any such renewal thereof. Nothing in the preceding sentence
19 shall affect the Contracting Officer's ability to impose shortages under subdivision (b) of Article
20 12 of this Contract and the applicable provisions of any such renewal thereof.

21 (i) Notwithstanding subdivision (a) of this Article, Project Water furnished
22 to the Contractor pursuant to this Contract may be delivered for purposes other than for

1 municipal and industrial purposes upon written approval by the Contracting Officer in
2 accordance with the terms and conditions of such approval.

3 TIME FOR DELIVERY OF WATER

4 4. (a) On or about February 15, of each Calendar Year, the Contracting
5 Officer shall declare the amount of Project Water estimated to be made available to the
6 Contractor pursuant to this Contract for the upcoming Year. The declaration will be updated
7 monthly, as necessary, based on current hydrologic conditions. The Contracting Officer shall
8 make available the forecast of Project operations, with relevant supporting information, upon the
9 written request of the Contractor or its representatives. Upon written request of the Contractor,
10 the Contracting Officer shall provide the basis of the estimate which shall include, but not be
11 limited to, the projected carryover of Project reservoirs, projected CVPIA impacts, projected
12 Endangered Species Act impacts, and all other regulatory impacts.

13 (b) On or before each March 1, the Contractor shall submit to the
14 Contracting Officer and at such other times as necessary, a written schedule, satisfactory to the
15 Contracting Officer, showing the times and the estimated quantities of Project Water to be
16 delivered by the United States to the Contractor.

17 (c) Subject to the conditions set forth in subdivision (a) of Article 3, the
18 United States shall deliver Project Water to the Contractor in accordance with the initial schedule
19 submitted by the Contractor pursuant to subdivision (b) of this Article, or any revision(s) thereto
20 submitted within a reasonable time prior to the date(s) on which the requested change(s) is/are to
21 be implemented.

1 **POINT OF DELIVERY AND RESPONSIBILITY FOR DISTRIBUTION OF WATER**

2 5. (a) Project Water shall be made available to the Contractor, at the
3 Contractor's option: (i) at the intake for the Sacramento River Water Treatment Plant owned by
4 the City of Sacramento; (ii) at an intake on the Sacramento River at river mile 46.5; (iii) at an
5 intake on the American River at river mile 0.4, located on assessor's parcel 001-0181-001-0000
6 owned by the Contractor; (iv) for Subcontractor's use, directly from Folsom Reservoir via the
7 pipeline through Folsom Dam which terminates one hundred (100) feet southeasterly from the
8 easterly right-of-way line of the Green Valley Road at Station 102+67.88 of the Natoma Canal
9 Relocation; or (v) without amending this Contract, at another location approved in writing by the
10 Contracting Officer.

11 (b) The Contracting Officer shall make all reasonable efforts to maintain
12 sufficient flows to the authorized points of delivery to allow the Contractor to meet the demands
13 of the Contractor's customers.

14 (c) The parties acknowledge that the points of delivery identified in
15 subdivisions (a)(i), (ii), and (iii) of this article were not, as of the date of this contract included as
16 authorized points of diversion and redirection under the water rights for the Project, and that
17 portions of the Contract Use Area were also, not as of the date of this Contract within the place
18 of use under the water rights for the Project. Project Water shall not be delivered from such
19 points or to such lands unless and until such points are added to the water rights permits for the
20 Project and such lands are included within the authorized place of use under the water rights for
21 the Project. The parties also acknowledge that the Contracting Officer has petitioned the State
22 Water Resources Control Board to include the necessary points of diversion and redirection, and

1 all of the Contract Use Area within the authorized place of use, and that the Contractor and
2 Subcontractor shall cooperate with and assist the Contracting Officer in prosecuting such petition
3 to conclusion as soon as feasible.

4 (d) Project Water delivered to the Contractor pursuant to this Contract,
5 and other water to which the Contractor is entitled that is diverted at the same point of delivery,
6 shall be measured and recorded with equipment furnished, installed, operated, and maintained by
7 the Contractor at the point or points of delivery established pursuant to subdivision (a) of this
8 Article. Provided, That if the Project Water delivered pursuant to this Contract is diverted at a
9 location or in a manner so as to be commingled with water diverted by any other entity, the point
10 of measurement for Project Water delivered to the Contractor shall be a location at which Project
11 Water diverted for Contractor's use can be measured separately from water diverted by any such
12 entity or entities. Upon the request of the Contracting Officer or the responsible Operating Non-
13 Federal Entity, the Contractor shall investigate the accuracy of such measurements and shall take
14 any necessary steps to adjust any errors appearing therein.

15 (e) The Contractor shall advise the Contracting Officer on or before the
16 tenth calendar day of each month of the daily quantities of Delivered Water taken during the
17 preceding month measured and recorded in accordance with subdivision (d) of this Article.
18 Provided, That the obligation to provide such information with respect to the Subcontractor may
19 be assigned by the Contractor to the Subcontractor.

20 (f) Neither the United States nor any Operating Non-Federal Entity shall
21 be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water
22 made available to the Contractor pursuant to this Contract beyond the delivery points specified in

1 subdivision (a) of this Article. The Contractor shall indemnify the United States its officers,
2 employees, agents, and assigns on account of damage or claim of damage of any nature
3 whatsoever for which there is legal responsibility, including property damage, personal injury, or
4 death arising out of or connected with the control, carriage, handling, use, disposal, or distribution
5 of such Project Water beyond such delivery points, except for any damage or claim arising out of
6 (i) acts performed by the United States or any of its officers, employees, agents, or assigns,
7 including any responsible Operating Non-Federal Entity, with the intent of creating the situation
8 resulting in any damage or claim; (ii) willful misconduct of the United States or any of its officers,
9 employees, agents, or assigns, including any responsible Operating Non-Federal Entity; or (iii)
10 negligence of the United States or any of its officers, employees, agents, or assigns, including any
11 responsible Operating Non-Federal Entity.

12 MEASUREMENT OF WATER

13 6. (a) Within five (5) Years of the effective date of this Contract, the
14 Contractor shall ensure that, unless the Contractor establishes an alternative measurement
15 program satisfactory to the Contracting Officer, all surface water delivered for municipal and
16 industrial purposes within the Contractor's Service Area and the Subcontractor's Service Area is
17 measured at each municipal and industrial service connection. All water measuring devices or
18 water measuring methods of comparable effectiveness must be acceptable to the Contracting
19 Officer. The Contractor shall be responsible for installing, operating, and maintaining and
20 repairing all such measuring devices and implementing all such water measuring methods at no
21 cost to the United States. The Contractor shall use the information obtained from such water
22 measuring devices or water measuring methods to ensure proper management of the water; to bill

1 water users for water delivered by the Contractor; and, if applicable, to record water delivered for
2 municipal and industrial purposes by customer class as defined in its water conservation plan.
3 Nothing herein contained, however, shall preclude the Contractor from establishing and collecting
4 any charges, assessments, or other revenues authorized by California law. The Contractor shall
5 include a summary of its annual surface water deliveries in the annual report described in
6 subdivision (c) of Article 24.

7 (b) To the extent the information has not otherwise been provided, upon
8 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
9 report describing the measurement devices or water measuring methods used or to be used to
10 implement subdivision (a) of this Article and identifying the municipal and industrial service
11 connections or alternative measurement programs approved by the Contracting Officer, at which
12 such measurement devices or water measuring methods are being used, and, if applicable,
13 identifying the locations at which such devices and/or methods are not yet being used including a
14 time schedule for implementation at such locations. The Contracting Officer shall advise the
15 Contractor in writing within ninety (90) days as to the adequacy of, and necessary modifications,
16 if any, of the measuring devices or water measuring methods identified in the Contractor's report
17 and if the Contracting Officer does not respond in such time, they shall be deemed adequate.
18 Within six (6) months following the Contracting Officer's response, the parties shall negotiate in
19 good faith the earliest practicable date by which the Contractor shall modify said measuring
20 devices and/or measuring methods as required by the Contracting Officer to ensure compliance
21 with subdivision (a) of this Article.

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

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

7 RATES AND METHOD OF PAYMENT FOR WATER

8 7. (a) The Contractor shall pay the United States in monthly payments as
9 provided in this Article for the quantities of Delivered Water furnished to the Contractor pursuant
10 to this Contract. Such payments shall consist of the applicable Rates and Charges determined
11 annually in accordance with applicable Federal law and associated regulations. The Rates and
12 Charges applicable upon execution of this Contract are set forth in Exhibit "A."

13 (b) If the amount of Delivered Water is less than or equal to eighty
14 (80%) percent of the Contractor's maximum contractual entitlement to Project Water pursuant to
15 subdivision (a) of Article 3, then payment for all Delivered Water shall be at the applicable Rates
16 specified in Exhibit A. If the amount of Delivered Water exceeds eighty (80%) percent of the
17 Contractor's maximum contractual entitlement to Project Water pursuant to subdivision (a) of
18 Article 3, then payment for that amount of Delivered Water, which equals eighty (80%) percent of
19 the maximum contractual entitlement shall be at the applicable Rates specified in Exhibit A, but
20 payment for the increment of Delivered Water, which is in excess of eighty (80%) percent of the
21 maximum contractual entitlement, shall be as follows:

1 (1) When the total amount of Delivered Water exceeds eighty
2 (80%) percent of the maximum contractual entitlement, then the increment in excess
3 of eighty (80%) percent, but less than or equal to ninety (90%) percent, shall be paid for
4 by the Contractor at a rate equal to the average of the applicable Rate and the M&I Full Cost
5 Rate; and

6 (2) When the total amount of Delivered Water exceeds ninety
7 (90%) percent of the maximum contractual entitlement, then the increment in excess of ninety
8 (90%) percent shall be paid for by the Contractor at the M&I Full Cost Rate.

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

11 (1) Prior to July 1, of each Calendar Year, the Contracting
12 Officer shall provide the Contractor the preliminary calculation of the Charges that
13 will be applied for the period October 1, of the current Calendar Year, through
14 September 30, of the following Calendar Year, and identify the statutes, regulations, and
15 guidelines used as the basis for such calculations. On or before September 15, of
16 each Calendar Year, the Contracting Officer shall notify the Contractor in writing of
17 the Charges to be in effect during the period October 1, of the current Calendar
18 Year, through September 30, of the following Calendar Year, and such notification
19 shall revise Exhibit "A"; and

20 (2) Prior to October 1 of each Calendar Year, the
21 Contracting Officer shall make available to the Contractor an estimate of the Rates
22 of payment for the following Year and the computations and cost allocations upon

1 which those Rates are based. The Contractor shall be allowed not less than two (2)
2 months to review and comment on such computations and cost allocations. By
3 December 31 of each Calendar Year, the Contracting Officer shall provide the
4 Contractor with the final Rates to be in effect for the upcoming Year, and such
5 notification shall revise Exhibit "A."

6 (d) At the time the Contractor submits the initial schedule for the delivery
7 of Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
8 Contractor shall pay the United States the total amount payable pursuant to the applicable Rate(s)
9 for all Project Water scheduled to be delivered pursuant to this Contract during the first two (2)
10 calendar months of the Year. Before the end of the first month or part thereof of the Year, and
11 before the end of each calendar month thereafter, the Contractor shall pay pursuant to the
12 applicable Rate(s) for all Project Water scheduled to be delivered pursuant to this Contract during
13 the second month immediately following. Adjustments between the payments for the scheduled
14 amount of Project Water and the appropriate payments for quantities of Delivered Water
15 furnished pursuant to this Contract each month shall be made before the end of the following
16 month and may be reflected in the payments made during the following month: Provided, That
17 any revised schedule submitted by the Contractor pursuant to Article 4 that increases the amount
18 of Project Water to be delivered pursuant to this Contract during any month shall be accompanied
19 with appropriate payment for Rates to assure that Project Water is not furnished to the Contractor
20 in advance of such payment. In any month in which the quantity of Delivered Water furnished to
21 the Contractor pursuant to this Contract equals the quantity of Project Water scheduled and paid
22 for by the Contractor, no additional Project Water shall be made available to the Contractor

1 unless and until payment of Rates for such additional Project Water is made. Final adjustment
2 between the payments of Rates for the Project Water scheduled and the quantities of Delivered
3 Water furnished during each Year pursuant to this Contract shall be made as soon as possible, but
4 no later than April 30 of the following Year.

5 (e) The Contractor shall pay all Charges owing for Delivered Water before
6 the end of the month following the month of delivery. Such amounts shall be consistent with the
7 quantities of M&I Water shown in the United States' water delivery report for the subject month.
8 The water delivery report shall be regarded by the Contractor as a bill for the payment of
9 appropriate Charges. Any monthly adjustment for overpayment or underpayment of Charges shall
10 be accomplished through the adjustment of Charges due to the United States in the next month.
11 By March 31 of each Year, the Contractor shall make any additional payment of Charges it is
12 obligated to make for Delivered Water furnished to the Contractor pursuant to this Contract for
13 the previous Year. The amount to be paid for past due payment of Charges shall be computed
14 pursuant to Article 19 of this Contract.

15 (f) The Contractor shall pay for any Project Water provided under
16 subdivision (f) of Article 3 as determined by the Contracting Officer pursuant to applicable
17 statutes, regulations, guidelines, and policies.

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

20 (h) Revenues received by the United States pursuant to this Contract shall
21 be allocated and applied in accordance with the Federal Reclamation law, including but not limited
22 to subsection (f) of Section 3405 and subsection (d)(2)(A) of Section 3407 of the CVPIA, and the

1 associated regulations, including but not limited to, the Project M&I rate setting policy
2 promulgated pursuant to the Administrative Procedure Act.

3 (i) At the Contractor's request, the Contracting Officer shall provide to the Contractor an
4 accounting of all of the expenses allocated and the disposition of all revenues received pursuant to
5 this Contract in sufficient detail to allow the Contractor to determine that the allocation of
6 expenses and disposition of all revenues received was accomplished in conformance with Federal
7 Reclamation law and the associated regulations. The Contracting Officer and the Contractor shall
8 enter into good faith negotiations to resolve any discrepancies or disputes arising out of said
9 accounting of the Contractor's review thereof.

10 (j) The parties acknowledge and agree that the efficient administration of
11 this Contract is their mutual goal. Recognizing that experience has demonstrated that
12 mechanisms, policies, and procedures used for establishing Rates and Charges, and/or for making
13 and allocating payments, other than those set forth in this Article would be in the mutual best
14 interest of the parties, it is expressly agreed that the parties may enter into agreements for
15 alternative mechanisms, policies, and procedures for any of those purposes while this Contract is
16 in effect without amending this Contract.

17 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

18 8. The Contractor and the Contracting Officer concur that, at the time of the
19 execution of this Contract, the Contractor has no non-interest bearing operation and maintenance
20 deficit or other deficit of any kind.

1 TRANSFERS OR EXCHANGES OF WATER

2 9. (a) Project Water made available under this Contract shall not be sold,
3 transferred, or exchanged to others outside the County of Sacramento.

4 (b) The parties agree that the lack of acknowledgment in this Contract by the
5 Contracting Officer as to which county, watershed, or other area of origin, as those terms are
6 utilized under California law, the Contractor and the Subcontractor lie within, if any, does not
7 constitute, and shall not be construed as constituting: (i) a determination by the Contracting
8 Officer as to the applicability or non-applicability of Section 3405(a)(1)(M) of the CVPIA to the
9 Contractor or the Subcontractor as a transferor or transferee of Project Water; (ii) an agreement
10 or admission by the Contractor or the Subcontractor that the said section does not apply to them;
11 or (iii) an agreement or admission by the Contractor or the Subcontractor that they do or do not
12 lie within any given county, watershed, or area of origin, as those terms are utilized under
13 California law.

14 APPLICATION OF PAYMENTS AND ADJUSTMENTS

15 10. (a) The amount of any overpayment by the Contractor shall be applied first
16 to any accrued indebtedness arising out of this Contract then due and payable by the Contractor.
17 Any amount of such overpayment then remaining shall, at the option of the Contractor, be
18 refunded to the Contractor or credited upon amounts to become due to the United States from
19 the Contractor under the provisions hereof in the following months. With respect to
20 overpayment, such adjustment shall constitute the sole remedy of the Contractor or anyone having
21 or claiming to have the right to the use of any of the water supply provided for herein.

1 (b) All advances for miscellaneous costs incurred for work requested by
2 the Contractor pursuant to Article 23 shall be adjusted to reflect the actual costs when the work
3 has been completed. If the advances exceed the actual costs incurred, the difference will be
4 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor
5 will be billed for the additional costs pursuant to Article 23.

6 TEMPORARY REDUCTIONS--RETURN FLOWS

7 11. (a) Subject to: (i) the authorized purposes and priorities of the Project;
8 and (ii) the obligations of the United States under existing contracts, or renewals thereof,
9 providing for water deliveries from the Project, the Contracting Officer shall make all reasonable
10 efforts to optimize Project Water deliveries to the Contractor as provided in this Contract.

11 (b) The United States may temporarily discontinue or reduce the quantity
12 of Project Water to be delivered to the Contractor as herein provided for the purposes of
13 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any
14 part thereof necessary for the delivery of Project Water to the Contractor, but so far as feasible
15 the Contracting Officer will give the Contractor due notice in advance of such temporary
16 discontinuance or reduction, except in case of emergency, in which case no notice need be given:
17 Provided, That the United States shall use its best efforts to avoid any discontinuance or reduction
18 in such service. Upon resumption of service after such reduction or discontinuance, and if
19 requested by the Contractor, the United States will, if possible, deliver the quantity of Project
20 Water that would have been delivered hereunder in the absence of such discontinuance or
21 reduction: Provided, further, That with respect to any quantity of Project Water not delivered

1 after a discontinuance or reduction the Contractor shall be relieved of its scheduling and payment
2 obligations for such quantity of Project Water.

3 (c) The United States reserves the right to all seepage and return flow
4 water derived from water delivered to the Contractor hereunder that escapes or is discharged
5 beyond the Contractor's boundaries: Provided, That this shall not be construed as claiming for the
6 United States any right to seepage or return flow being put to reasonable and beneficial use
7 pursuant to this Contract within the Contractor's boundaries by the Contractor or those claiming
8 by, through, or under the Contractor.

9 WATER SHORTAGE AND APPORTIONMENT

10 12. (a) In its operation of the Project, the Contracting Officer will use all
11 reasonable means to guard against a condition of shortage in the quantity of Project Water to be
12 made available to the Contractor pursuant to this Contract. Insofar as determined by the
13 Contracting Officer to be practicable, the Contracting Officer will, in the event a shortage appears
14 probable, notify the Contractor of such determinations as soon as possible.

15 (b) If there is a reduction in the Project Water supply available to the
16 Contractor during any Year because of errors in physical operations of the Project, drought, or
17 other physical causes beyond the control of the Contracting Officer or actions taken by the
18 Contracting Officer to meet legal obligations, no liability shall accrue against the United States or
19 any of its officers, agents, or employees for any damage, direct or indirect, arising therefrom, so
20 long as actions based upon the opinions or determinations of the Contracting Officer are
21 consistent with the standards in Article 18.

1 (c) In any Year in which there may occur a shortage for any of the reasons
2 specified in subdivision (b) of this Article, the Contracting Officer shall apportion the available
3 Project Water supply among the Contractor and others entitled, under existing contracts and
4 future contracts (to the extent such future contracts are permitted under subsections (a) and (b) of
5 Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the
6 contractual obligations of the United States.

7 ARTICLE 13 INTENTIONALLY OMITTED

8 COMPLIANCE WITH FEDERAL RECLAMATION LAW

9 14. This Contract shall be implemented in accordance with all applicable provisions
10 of Federal Reclamation law, as amended and supplemented.

11 WATER AND AIR POLLUTION CONTROL

12 15. The Contractor, in carrying out this Contract, shall comply with all applicable
13 water and air pollution laws and regulations of the United States and the State of California, and
14 shall obtain all required permits or licenses from the appropriate Federal, State, or local
15 authorities.

16 QUALITY OF WATER

17 16. (a) Project facilities used to make available and deliver Project Water to
18 the Contractor pursuant to this Contract shall be operated and maintained to enable the United
19 States to make available and deliver Project Water to the Contractor in accordance with the water
20 quality standards specified in subsection 2(b) of the Act of August 26, 1937 (50 Stat. 865), as
21 added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050), or other existing Federal
22 laws. The United States is under no obligation to construct or furnish water treatment facilities to

1 maintain or to better the quality of Project Water furnished to the Contractor pursuant to this
2 Contract. The United States does not warrant the quality of Project Water made available and
3 delivered to the Contractor pursuant to this Contract.

4 (b) The operation and maintenance of Project facilities shall be performed
5 in such manner as is practicable to maintain the quality of raw water made available through such
6 facilities at the highest level reasonably attainable as determined by the Contracting Officer. The
7 Contractor shall be responsible for compliance with all State and Federal water quality standards
8 applicable to surface and subsurface agricultural drainage discharges, if any, generated through
9 the use of Federal or Contractor facilities or Project Water provided by the Contractor, within the
10 Contractor's Service Area and Subcontractor's Service Area. This Article shall not affect or alter
11 any legal obligations of the Secretary to provide drainage services.

12 WATER ACQUIRED BY THE CONTRACTOR OTHER THAN
13 FROM THE UNITED STATES

14 17. Water or water rights now owned, or hereafter acquired by the Contractor or
15 Subcontractor, other than from the United States, may be simultaneously transported through the
16 same distribution facilities of the Contractor or Subcontractor.

17 OPINIONS AND DETERMINATIONS

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

1 any such arbitrary, capricious, or unreasonable opinion or determination. Each opinion or
2 determination by either party shall be provided in a timely manner.

3 (b) The Contracting Officer shall have the right to make determinations
4 necessary to administer this Contract that are consistent with the expressed and implied provisions
5 of this Contract, the laws of the United States and the State of California, and the rules and
6 regulations promulgated by the Secretary of the Interior. Such determinations shall be made in
7 consultation with the Contractor to the extent reasonably practicable.

8 CHARGES FOR DELINQUENT PAYMENTS

9 19. (a) The Contractor shall be subject to interest, administrative, and penalty
10 charges on delinquent installments or payments. When a payment is not received by the due date,
11 the Contractor shall pay an interest charge for each day the payment is delinquent beyond the due
12 date. When a payment becomes 60 days delinquent, the Contractor shall pay an administrative
13 charge to cover additional costs of billing and processing the delinquent payment. When a
14 payment is delinquent 90 days or more, the Contractor shall pay an additional penalty charge of 6
15 percent per year for each day the payment is delinquent beyond the due date. Further, the
16 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
17 payment.

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

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

26 EQUAL OPPORTUNITY

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

28 (1) The Contractor will not discriminate against any employee or applicant
29 for employment because of race, color, religion, sex, or national origin. The Contractor will take
30 affirmative action to ensure that applicants are employed, and that employees are treated during

1 employment, without regard to their race, color, religion, sex, or national origin. Such action
2 shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer;
3 recruitment or recruitment advertising; layoff or termination, rates of payment or other forms of
4 compensation; and selection for training, including apprenticeship. The Contractor agrees to post
5 in conspicuous places, available to employees and applicants for employment, notices to be
6 provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.

7 (2) The Contractor will, in all solicitations or advertisements for employees
8 placed by or on behalf of the Contractor, state that all qualified applicants will receive
9 consideration for employment without discrimination because of race, color, religion, sex, or
10 national origin.

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

17 (4) The Contractor will comply with all provisions of Executive Order
18 No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders
19 of the Secretary of Labor.

20 (5) The Contractor will furnish all information and reports required by said
21 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or
22 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting
23 Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such
24 rules, regulations, and orders.

25 (6) In the event of the Contractor's noncompliance with the
26 nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders,
27 this Contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor
28 may be declared ineligible for further Government contracts in accordance with procedures
29 authorized in said amended Executive Order, and such other sanctions may be imposed and
30 remedies invoked as provided in said Executive Order, or by rule, regulation, or order of the
31 Secretary of Labor, or as otherwise provided by law.

32 (7) The Contractor will include the provisions of paragraphs (1) through
33 (7) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of
34 the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that
35 such provisions will be binding upon each subcontractor or vendor. The Contractor will take
36 such action with respect to any subcontract or purchase order as may be directed by the Secretary
37 of Labor as a means of enforcing such provisions, including sanctions for noncompliance:

1 Provided, however, That in the event the Contractor becomes involved in, or is threatened with,
2 litigation with a subcontractor or vendor as a result of such direction, the Contractor may request
3 the United States to enter into such litigation to protect the interests of the United States.

4 OBLIGATION TO PAY--BENEFITS
5 CONDITIONED UPON PAYMENT

6 21. (a) The obligation of the Contractor to pay the United States as provided
7 in this Contract is an obligation of the Contractor notwithstanding the manner in which the
8 obligation may be distributed among the Contractor's water users and notwithstanding the default
9 of individual water users in their obligations to the Contractor.

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

16 COMPLIANCE WITH CIVIL RIGHTS LAWS
17 AND REGULATIONS

18 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of
19 1964 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P. L. 93-112, as
20 amended), the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable
21 civil rights laws, as well as with their respective implementing regulations and guidelines imposed
22 by the U.S. Department of the Interior and/or Bureau of Reclamation.

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

29 (c) The Contractor makes this agreement in consideration of and for the
30 purpose of obtaining any and all Federal grants, loans, contracts, property discounts or other
31 Federal financial assistance extended after the date hereof to the Contractor by the Bureau of
32 Reclamation, including installment payments after such date on account of arrangements for
33 Federal financial assistance which were approved before such date. The Contractor recognizes
34 and agrees that such Federal assistance will be extended in reliance on the representations and
35 agreements made in this Article, and that the United States reserves the right to seek judicial
36 enforcement thereof.
37

1 **CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS**

2 23. In addition to all other payments to be made by the Contractor pursuant to this
3 Contract, the Contractor shall pay to the United States, within sixty (60) days after receipt of a
4 bill and detailed statement submitted by the Contracting Officer to the Contractor for such
5 specific items of direct cost incurred by the United States for work requested by the Contractor
6 associated with this Contract plus a percentage of such direct costs for administrative and general
7 overhead in accordance with applicable Bureau of Reclamation policy and procedures. All such
8 amounts referred to in this Article shall not exceed the amount agreed to in writing in advance by
9 the Contractor. This Article shall not apply to costs for routine contract administration.

10 **WATER CONSERVATION**

11 24. (a) Prior to the delivery of water provided from or conveyed through
12 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
13 shall have developed and be implementing an effective water conservation program within the
14 Contractor's Service Area and Subcontractor's Service Area based on the Contractor's water
15 conservation plan that has been determined by the Contracting Officer to meet the conservation
16 and efficiency criteria established under Federal law. In the event the Contractor's water
17 conservation plan has not yet been determined by the Contracting Officer to meet such criteria,
18 due to circumstances that the Contracting Officer determines are beyond the control of the
19 Contractor, Project Water deliveries shall be made under this Contract so long as the Contractor
20 diligently works with the Contracting Officer to obtain such determination at the earliest
21 practicable date, and thereafter the Contractor immediately begins implementing its water
22 conservation program in accordance with the time schedules therein. The water conservation

1 program shall contain definite water conservation objectives, appropriate economically feasible
2 water conservation measures, and time schedules for meeting those objectives.

3 (b) Should the amount of M&I water delivered pursuant to subdivision (a)
4 of Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall
5 implement the Best Management Practices identified by and the time frames issued by the
6 California Urban Water Conservation Council, unless any such practice is determined by the
7 Contracting Officer to be inappropriate for the Contractor.

8 (c) The Contractor shall submit to the Contracting Officer by
9 December 31, of each Calendar Year, an annual report on the status of its implementation of the
10 water conservation program.

11 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

12 25. Except as specifically provided in Articles 5 and 17 of this Contract, the
13 provisions of this Contract shall not be applicable to or affect water or water rights now owned or
14 hereafter acquired by the Contractor or any user of such water within the Contract Use Area or
15 Subcontractor's Service Area from other than the United States. Any such water shall not be
16 considered Project Water under this Contract. In addition, this Contract shall not be construed as
17 limiting or curtailing any rights that the Contractor or any water user within the Contract Use
18 Area or Subcontractor's Service Area acquires or has available under any other contract pursuant
19 to Federal Reclamation law.

20 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

21 26. (a) The operation and/or maintenance of all or any portion or portions of
22 the Project facilities may be transferred to the Operating-Non-Federal Entity by separate

1 agreement between the United States and the Operating Non-Federal Entity. Any such separate
2 agreements shall not interfere with the rights or obligations of the Contractor or the United States
3 hereunder.

4 (b) If so notified in writing by the Contracting Officer, the Contractor shall
5 pay directly to such Operating Non-Federal Entity in accordance with such notice its allocated
6 share of all charges for the operation and maintenance of the American River Division facilities
7 operated and/or maintained by the Operating Non-Federal Entity, all in compliance with all
8 provisions of Article 7 hereof: Provided, That this shall not relieve the Contractor of its
9 obligation to pay directly to the United States for its allocated share of the Project construction
10 costs and its allocated share of the remaining operation and maintenance costs for the Project.

11 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

12 27. The expenditure or advance of any money or the performance of any obligation
13 of the United States under this Contract shall be contingent upon appropriation or allotment of
14 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
15 obligations under this Contract. No liability shall accrue to the United States in case funds are not
16 appropriated or allotted.

17 BOOKS, RECORDS, AND REPORTS

18 28. The Contractor shall establish and maintain accounts and other books and
19 records pertaining to administration of the terms and conditions of this Contract, including: the
20 Contractor's financial transactions, water supply data, and Project land and right-of-way
21 agreements; the water users' land-use (crop census), land ownership, land-leasing, and water use
22 data; and other matters that the Contracting Officer may require. Reports thereon shall be
23 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
24 Officer may require. Subject to applicable Federal laws and regulations, each party to this
25 Contract shall have the right during office hours to examine and make copies of the other party's
26 books and records relating to matters covered by this Contract.

27 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

4 SEVERABILITY

5 30. In the event that an action is brought in a court of competent jurisdiction by a
6 person or entity other than the Contractor challenging the legality or enforceability of a provision
7 included in this Contract and a final court decision is issued holding that such provision is legally
8 invalid or unenforceable and the Contractor has not intervened in that lawsuit in support of the
9 plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days of
10 the date of such final court decision identify by mutual agreement the provisions in this Contract
11 that must be revised; and (ii) within three (3) months thereafter promptly agree on the appropriate
12 revision(s). The time periods specified above may be extended by mutual agreement of the
13 parties. Pending the completion of the actions designated above, to the extent it can do so
14 without violating any applicable provisions of law, the United States shall continue to make the
15 quantities of Project Water specified in this Contract available to the Contractor pursuant to the
16 provisions of this Contract that were not found to be legally invalid or unenforceable in the final
17 court decision.

18 OFFICIALS NOT TO BENEFIT

19 31. No Member of or Delegate to Congress, Resident Commissioner or official of
20 the Contractor shall benefit from this Contract other than as a water user or landowner in the
21 same manner as other water users or landowners.

22 CHANGES IN CONTRACTOR'S BOUNDARIES

23 32. While this Contract is in effect, no change may be made in the Contractor's
24 boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
25 except upon the Contracting Officer's written consent.

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34. The Contractor may enter into a subcontract with the Subcontractor for the resale and distribution of up to 7,000 acre-feet of water furnished pursuant to this Contract. The subcontract shall be subject to the obligations and limitations imposed, and to the rights granted, by this Contract and shall so provide. The terms and conditions of the subcontract shall be approved by the Contracting Officer prior to the execution of the subcontract, which approval shall be limited to a determination that the subcontract is consistent with the provisions of this Contract. Nothing herein or therein contained shall be deemed in any way to release the Contractor from its primary liability to the United States hereunder with respect to each and all of the obligations undertaken by the Contractor in this Contract. To the maximum extent allowed by law, when any breach of, or failure to perform, this Contract by the Contractor is due to the action or inaction solely of the Subcontractor and such breach or failure to perform results in denial or discontinuation of the delivery of Project Water, the Contractor shall still be entitled to the benefits of this Contract if, and only if, the Contractor ceases deliveries of Project Water to the Subcontractor until such time as the breach or failure to perform is cured.

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

3 THE UNITED STATES OF AMERICA

4 APPROVED AS TO LEGAL
5 FORM AND SUFFICIENCY
6 James E. Turner
7 OFFICE OF REGIONAL SOLICITOR
8 OF THE BUREAU OF RECLAMATION

By: Mark S. [Signature]

Regional Director, Mid-Pacific Region
Bureau of Reclamation

7 SACRAMENTO COUNTY WATER AGENCY,
8 a political subdivision of the State of California

9 (SEAL)

10 By: Murphy Johnson

11 Chair of the Board of Directors of
12 Sacramento County Water Agency

13 Attest:

14 Cecilia H. Turner
15 Clerk of the Board of Supervisors of
16 Sacramento County, California, and
17 ex-officio Secretary of the Board of
18 Directors of Sacramento County
19 Water Agency

20 Approved as to Form:

21 John F. Whit
22 Deputy County Counsel

23 (I:Sacco118.wpd)

EXHIBIT A

2000 Water Rates for Contract No. 6-07-20-W1372
Sacramento County Water Agency

<u>COST-OF-SERVICE RATES</u>	<u>2000 Rates Per Acre-Foot</u>	
	<u>Cost-of-Service</u> <u>M&I Water</u>	<u>M&I Full</u> <u>Cost Water</u>
Capital Rate	\$ 7.40	\$15.73
O&M Rates:		
Water Marketing	6.80	6.80
Storage	4.65	4.65
Conveyance	0.00	0.00
Conveyance Pumping (Exchange Water)	0.00	0.00
Deficit Rates:		
Interest Bearing	0.00	0.00
 CONTRACT RATES	 \$18.85	 \$27.18
 <u>SURCHARGES UNDER P.L. 102-575</u> <u>TO RESTORATION FUND *</u>		
Restoration Payments [3407(d)(2)(A)]	\$14.20	\$14.20

* The surcharges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575.

(H:\public\corr\SacCty1.rat)



EXHIBIT B-2 Subcontractor Service Area

- Subcontractor Service Area
- City of Folsom East Area
- City of Folsom Corporate Boundary

SCWA-14

DATE: 26 MAR 1999
PROJECT: DISTRICT/NEW/BOUNDARIES/SAC_CO_WA/MAF/SUBCON

