

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
PATTERSON IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM THE DELTA DIVISION

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Exhibit A - Map of Contractor's Service Area

Exhibit B - Rates and Charges

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

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
6 AND
7 PATTERSON IRRIGATION DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM THE DELTA DIVISION

10 THIS CONTRACT, made this 9th day of March, 2005, in pursuance
11 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,
12 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
13 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat.
14 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat.
15 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all
16 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES
17 OF AMERICA, hereinafter referred to as the United States, and PATTERSON IRRIGATION
18 DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly
19 organized, existing, and acting pursuant to the laws thereof;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
23 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for

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

28 [2nd] WHEREAS, the United States constructed the Delta-Mendota Canal and related
29 facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the
30 terms of this Contract; and

31 [3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant
32 to California law for operation of the Project; and

33 [4th] WHEREAS, the Contractor and the United States entered into Contract
34 No. 14-06-200-3598A, which established terms for the delivery to the Contractor of Project Water
35 from the Delta Division Facilities from December 18, 1967, through February 28, 1995; and

36 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection
37 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
38 interim renewal contract(s) identified as Contract No(s). 14-06-200-3598A-IR1, 14-06-200-3598A-
39 IR2, 14-06-200-3598A-IR3, 14-06-200-3598A-IR4, 14-06-200-3598A-IR5, 14-06-200-3598A-IR6,
40 14-06-200-3598A-IR7, 14-06-200-3598A-IR8, the current of which is hereinafter referred to as the
41 Existing Contract, which provided for the continued water service to the Contractor from March 1,
42 1995, through February 29, 2006; and

43 [5.1] WHEREAS, through Contract No. 14-06-200-3598A providing among other things
44 6,000 acre-feet of Replacement Water, the parties reached a settlement with respect to any and all of
45 the Contractor's claims that the construction and operation of the Project has interfered with its right
46 in and to the use of the water of the San Joaquin River; and

47 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the
48 Existing Contract following completion of appropriate environmental documentation, including a
49 programmatic environmental impact statement (PEIS) pursuant to the National Environmental
50 Policy Act (NEPA) analyzing the direct and indirect impacts and benefits of implementing the
51 CVPIA and the potential renewal of all existing contracts for Project Water; and

52 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
53 environmental review necessary to provide for long-term renewal of the Existing Contract; and

54 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
55 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of
56 the State of California, for water service from the Project; and

57 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
58 its obligations under the Existing Contract; and

59 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
60 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and
61 beneficial use and/or has demonstrated projected future demand for water use such that the
62 Contractor has the capability and expects to utilize fully for reasonable and beneficial use the
63 quantity of Project Water to be made available to it pursuant to this Contract; and

64 [11th] WHEREAS, water obtained from the Project has been relied upon by urban and
65 agricultural areas within California for more than 50 years, and is considered by the Contractor as
66 an essential portion of its water supply; and

67 [12th] WHEREAS, the economies of regions within the Project, including the Contractor's,
68 depend upon the continued availability of water, including water service from the Project; and

69 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and
70 partnerships to pursue measures to improve water supply, water quality, and reliability of the
71 Project for all Project purposes; and

72 [14th] WHEREAS, the mutual goals of the United States and the Contractor include: to
73 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment
74 of the Project as required by law; to guard reasonably against Project Water shortages; to achieve a
75 reasonable balance among competing demands for use of Project Water; and to comply with all
76 applicable environmental statutes, all consistent with the legal obligations of the United States
77 relative to the Project; and

78 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
79 relationship in order to achieve their mutual goals; and

80 [15.1] WHEREAS, the Contractor has utilized or may utilize transfers, contract
81 assignments, rescheduling and conveyance of Project Water and non-Project water under this
82 Contract as tools to minimize the impacts of Conditions of Shortage and to maximize the beneficial
83 use of water; and

84 [15.2] WHEREAS, the parties desire and intend that this Contract not provide a
85 disincentive to the Contractor in continuing to carry out the beneficial activities set out in the
86 Explanatory Recital immediately above; and

87 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
88 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

DEFINITIONS

91
92 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible
93 with the intent of the parties as expressed in this Contract, the term:

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

96 (b) "Charges" shall mean the payments required by Federal Reclamation law in
97 addition to the Rates and Tiered Pricing Component specified in this Contract as determined
98 annually by the Contracting Officer pursuant to this Contract;

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

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

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

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

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

113 (g.1) "Delta Division Facilities" shall mean those existing and future Project
114 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to, the
115 Tracy Pumping Plant, the O'Neill Forebay, the O'Neill Pumping/Generating Plant, and the San Luis
116 Reservoir, used to divert, store, and convey water to those Project Contractors entitled to receive
117 water conveyed through the Delta-Mendota Canal;

118 (h) "Eligible Lands" shall mean all lands to which Irrigation Water may be
119 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982 (96
120 Stat. 1263), as amended, hereinafter referred to as RRA;

121 (i) "Excess Lands" shall mean all lands in excess of the limitations contained in
122 Section 204 of the RRA, other than those lands exempt from acreage limitation under Federal
123 Reclamation law;

124 (j) "Full Cost Rate" shall mean an annual rate, as determined by the Contracting
125 Officer that shall amortize the expenditures for construction properly allocable to the Project
126 irrigation or M&I functions, as appropriate, of facilities in service including all O&M deficits
127 funded, less payments, over such periods as may be required under Federal Reclamation law, or
128 applicable contract provisions. Interest will accrue on both the construction expenditures and
129 funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the date
130 incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated in
131 accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes actual
132 operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules and
133 Regulations for the RRA;

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

136 (l) "Irrigation Full Cost Water Rate" shall mean the Full Cost Rate applicable to
137 the delivery of Irrigation Water;

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

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

143 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water, other
144 than Irrigation Water, made available to the Contractor. M&I Water shall include water used for
145 human use and purposes such as the watering of landscaping or pasture for animals (e.g., horses)
146 which are kept for personal enjoyment or water delivered to landholdings operated in units of less
147 than five acres unless the Contractor establishes to the satisfaction of the Contracting Officer that
148 the use of water delivered to any such landholding is a use described in subdivision (m) of this
149 Article;

150 (p) "M&I Full Cost Water Rate" shall mean the Full Cost Rate applicable to the
151 delivery of M&I Water;

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

155 (r) "Operating Non-Federal Entity" shall mean the entity(ies), its (their)
156 successors or assigns, which has (have) the obligation to operate and maintain all or a portion of the
157 Delta Division Facilities pursuant to written agreement(s) with the United States. When this

158 Contract was entered into, the Operating Non-Federal Entity was the San Luis & Delta-Mendota
159 Water Authority.

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

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

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

167 (v) "Rates" shall mean the payments determined annually by the Contracting
168 Officer in accordance with the then current applicable water ratesetting policies for the Project, as
169 described in subdivision (a) of Article 7 of this Contract;

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

173 (w.1) "Replacement Water" shall mean all water delivered to the Contractor
174 without payment pursuant to this Contract, and without application of Federal Reclamation law,
175 including but not limited to the acreage limitation provision of the Reclamation Reform Act of 1982
176 (96 Stat. 1263), as amended, under the authority of Section 14 of the Reclamation Project Act of
- 177 1939 (53 Stat. 1187 and 1197) as a full and complete adjustment and settlement of the Contractor's
178 asserted claim of right to water in the San Joaquin River in fulfillment of such rights, during the
179 term of this Contract and any amendment or renewal thereof; and

180 (x) "Secretary" shall mean the Secretary of the Interior, a duly appointed
181 successor, or an authorized representative acting pursuant to any authority of the Secretary and
182 through any agency of the Department of the Interior;

183 (y) "Tiered Pricing Component" shall be the incremental amount to be paid for
184 each acre-foot of Water Delivered as described in subdivision (j) of Article 7 of this Contract;

185 (z) "Water Delivered" or "Delivered Water" shall mean Project Water diverted
186 for use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

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

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

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

195 TERM OF CONTRACT

196 2. (a) This Contract shall be effective March 1, 2005, through February 28, 2030,
197 and supersedes the Existing Contract. In the event the Contractor wishes to renew this Contract
198 beyond February 28, 2030, the Contractor shall submit a request for renewal in writing to the
199 Contracting Officer no later than two years prior to the date this Contract expires. The renewal of
200 this Contract insofar as it pertains to the furnishing of Irrigation Water to the Contractor shall be
201 governed by subdivision (b) of this Article, and the renewal of this Contract insofar as it pertains to
202 the furnishing of M&I Water to the Contractor shall be governed by subdivision (c) of this Article.

203 (b) (1) Under terms and conditions of a renewal contract that are mutually
204 agreeable to the parties hereto, and upon a determination by the Contracting Officer that at the time
205 of contract renewal the conditions set forth in subdivision (b)(2) of this Article are met, and subject
206 to Federal and State law, this Contract, insofar as it pertains to the furnishing of Irrigation Water to
207 the Contractor, shall be renewed for a period of 25 years.

208 (2) The conditions which must be met for this Contract to be renewed are:

209 (i) the Contractor has prepared a water conservation plan that has been determined by the
210 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and
211 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is
212 implementing an effective water conservation and efficiency program based on the Contractor's
213 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is operating
214 and maintaining all water measuring devices and implementing all water measurement methods as
215 approved by the Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has
216 reasonably and beneficially used the Project Water supplies made available to it and, based on
217 projected demands, is reasonably anticipated and expects to fully utilize for reasonable and
218 beneficial use the quantity of Project Water to be made available to it pursuant to such renewal; (v)
219 the Contractor is complying with all terms and conditions of this Contract; and (vi) the Contractor
220 has the physical and legal ability to deliver Project Water.

221 (3) The terms and conditions of the renewal contract described in
222 subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed
223 consistent with the parties' respective legal rights and obligations, and in consideration of all
224 relevant facts and circumstances, as those circumstances exist at the time of renewal, including,
225 without limitation, the Contractor's need for continued delivery of Project Water; environmental

226 conditions affected by implementation of the Contract to be renewed, and specifically changes in
227 those conditions that occurred during the life of the Contract to be renewed; the Secretary's progress
228 toward achieving the purposes of the CVPIA as set out in Section 3402 and in implementing the
229 specific provisions of the CVPIA; and current and anticipated economic circumstances of the region
230 served by the Contractor.

231 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the
232 Contractor, shall be renewed for successive periods of up to 40 years each, which periods shall be
233 consistent with the then-existing Reclamation-wide policy, under terms and conditions mutually
234 agreeable to the parties and consistent with Federal and State law. The Contractor shall be afforded
235 the opportunity to comment to the Contracting Officer on the proposed adoption and application of
236 any revised policy applicable to the delivery of M&I Water that would limit the term of any
237 subsequent renewal contract with the Contractor for the furnishing of M&I Water to less than 40
238 years.

239 (d) The Contracting Officer shall make a determination ten years after the date of
240 execution of this Contract, and every five years thereafter during the term of this Contract, of
241 whether a conversion of the relevant portion of this Contract to a contract under subsection 9(d) of
242 the Reclamation Project Act of 1939 can be accomplished pursuant to the Act of July 2, 1956 (70
243 Stat 483). The Contracting Officer shall also make a determination ten years after the date of
244 execution of this Contract and every five years thereafter during the term of this Contract of whether
245 a conversion of the relevant portion of this Contract to a contract under subsection 9(c)(1) of the
246 Reclamation Project Act of 1939 can be accomplished. Notwithstanding any provision of this
247 Contract, the Contractor reserves and shall have all rights and benefits under the Act of July 2, 1956
248 (70 Stat. 483). The Contracting Officer anticipates that during the term of this Contract, all

249 authorized Project construction expected to occur will have occurred, and on that basis the
250 Contracting Officer agrees upon such completion to allocate all costs that are properly assignable to
251 the Contractor, and agrees further that, at any time after such allocation is made, and subject to
252 satisfaction of the condition set out in this subdivision, this Contract shall, at the request of the
253 Contractor, be converted to a contract under subsection 9(d) or 9(c)(1), whichever is applicable, of
254 the Reclamation Project Act of 1939, subject to applicable Federal law and under stated terms and
255 conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such
256 conversion to occur shall be a determination by the Contracting Officer that, account being taken of
257 the amount credited to return by the Contractor as provided for under Federal Reclamation law, the
258 remaining amount of construction costs assignable for ultimate return by the Contractor can
259 probably be repaid to the United States within the term of a contract under subsection 9(d) or
260 9(c)(1), whichever is applicable. If the remaining amount of costs that are properly assignable to
261 the Contractor cannot be determined during the term of this Contract, the Contracting Officer shall
262 notify the Contractor, and provide the reason(s) why such a determination could not be made.
263 Further, the Contracting Officer shall make such a determination as soon thereafter as possible so as
264 to permit, upon request of the Contractor and satisfaction of the conditions set out above,
265 conversion to a contract under subsection 9(d) or 9(c)(1), whichever is applicable. In the event such
266 determination of costs has not been made at a time which allows conversion of this Contract during
267 the term of this Contract or the Contractor has not requested conversion of this Contract within such
268 term, the parties shall incorporate in any subsequent renewal contract as described in subdivision (b)
269 of this Article a provision that carries forth in substantially identical terms the provisions of this
270 subdivision.

271 (e) In the event that this Contract terminates, the right of the Contractor to
272 thereafter divert and use water from the San Joaquin River, and to assert its claim(s) against the
273 United States for the alleged interference of the Project with the Contractor's ability to exercise its
274 alleged rights to divert water from the San Joaquin River, shall exist as if this Contract had not been
275 entered into. The existence of this Contract shall not affect the rights or position of either party
276 with respect to its water rights or the yield thereof at any time after this Contract terminates.

277 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

278 3. (a) During each Year, consistent with all applicable State water rights, permits,
279 and licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this
280 Contract, the Contracting Officer shall make available for delivery to the Contractor 16,500 acre-
281 feet of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in
282 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of
283 Articles 4 and 7 of this Contract.

284 (b) Because the capacity of the Project to deliver Project Water has been
285 constrained in recent years and may be constrained in the future due to many factors including
286 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
287 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this Article in
288 any given Year is uncertain. The Contracting Officer's modeling referenced in the PEIS projected
289 that the Contract Total set forth in this Contract will not be available to the Contractor in many
290 years. During the most recent five years, the Recent Historic Average of Water Made Available to
291 the Contractor was 13,555 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights
292 and obligations of the parties under any provision of this Contract.

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

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

304 (d) The Contractor shall make reasonable and beneficial use of all water
305 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu),
306 groundwater banking programs, surface water storage programs, and other similar programs
307 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
308 Contractor's Service Area which are consistent with applicable State law and result in use consistent
309 with Federal Reclamation law will be allowed; Provided, That any direct recharge program(s) is
310 (are) described in the Contractor's water conservation plan submitted pursuant to Article 26 of this
311 Contract; Provided, further, That such water conservation plan demonstrates sufficient lawful uses
312 exist in the Contractor's Service Area so that using a long-term average, the quantity of Delivered
313 Water is demonstrated to be reasonable for such uses and in compliance with Federal Reclamation
314 law. Groundwater recharge programs, groundwater banking programs, surface water storage
315 programs, and other similar programs utilizing Project Water or other water furnished pursuant to

316 this Contract conducted outside the Contractor's Service Area may be permitted upon written
317 approval of the Contracting Officer, which approval will be based upon environmental
318 documentation, Project Water rights, and Project operational concerns. The Contracting Officer
319 will address such concerns in regulations, policies, or guidelines.

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

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

339 of taking such water to determine the most equitable and efficient allocation of such water. If the
340 Contractor requests the delivery of any quantity of such water, the Contracting Officer shall make
341 such water available to the Contractor in accordance with applicable statutes, regulations,
342 guidelines, and policies. Subject to existing long-term contractual commitments, water rights and
343 operational constraints, long-term Project Contractors shall have a first right to acquire such water,
344 including Project Water made available pursuant to Section 215 of the RRA.

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

352 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
353 State law to the reasonable and beneficial use of Water Delivered and Replacement Water pursuant
354 to this Contract during the term thereof and any subsequent renewal contracts, as described in
355 Article 2 of this Contract, during the terms thereof shall not be disturbed so long as the Contractor
356 shall fulfill all of its obligations under this Contract and any renewals thereof. Nothing in the
357 preceding sentence shall affect the Contracting Officer's ability to impose shortages under Article
358 11 or subdivision (b) of Article 12 of this Contract or applicable provisions of any subsequent
359 renewal contracts.

360 (i) Project Water furnished to the Contractor pursuant to this Contract may be
361 delivered for purposes other than those described in subdivisions (m) and (o) of Article 1 of this

362 Contract upon written approval by the Contracting Officer in accordance with the terms and
363 conditions of such approval.

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

371 (k) In addition to Project Water and other water available to the Contractor
372 pursuant to this Contract, each year the Contracting Officer shall furnish from the Delta Division
373 Facilities, free of charge to the Contractor, including free from obligation to pay Rates and Charges
374 hereinafter provided for, and in accordance with a schedule submitted in the same manner as
375 required by subdivision (b) of Article 4 hereof, 6,000 acre-feet of Replacement Water. For
376 purposes of this Contract, the Replacement Water shall be considered to be the first 6,000 acre-feet
377 furnished in each Year. Nothing in this Contract is intended to affect the Contractor's right to
378 continue to divert water from the San Joaquin River pursuant to State law. Nothing herein shall be
379 deemed to be an assignment of any water right of the Contractor.

380 TIME FOR DELIVERY OF WATER

381 4. (a) On or about February 20th of each Calendar Year, the Contracting Officer
382 shall announce the Contracting Officer's expected declaration of the Water Made Available as well
383 as the quantity of Replacement Water expected to be delivered. Such declaration will be expressed
384 in terms of both Water Made Available and the Recent Historic Average and will be updated

385 monthly, and more frequently if necessary, based on then-current operational and hydrologic
386 conditions and a new declaration with changes, if any, to the Water Made Available will be made.
387 The Contracting Officer shall provide forecasts of Project operations and the basis of the estimate,
388 with relevant supporting information, upon the written request of the Contractor. Concurrently with
389 the declaration of the Water Made Available, the Contracting Officer shall provide the Contractor
390 with the updated Recent Historic Average.

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

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

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

POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

406
407 5. (a) Project Water and Replacement Water scheduled pursuant to subdivision (b)
408 of Article 4 of this Contract shall be delivered to the Contractor at a point or points on the Delta-
409 Mendota Canal and any additional point or points of delivery either on Project facilities or another
410 location or locations mutually agreed to in writing by the Contracting Officer and the Contractor.

411 (b) The Contracting Officer, either directly or indirectly through its written
412 agreement(s) with the Operating Non-Federal Entity shall make all reasonable efforts to maintain
413 sufficient flows and levels of water in Project facilities to deliver Project Water and Replacement
414 Water to the Contractor at the point or points of delivery established pursuant to subdivision (a) of
415 this Article.

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

420 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
421 measured and recorded with equipment furnished, installed, operated, and maintained by the
422 Contracting Officer either directly or indirectly through its written agreement(s) with the Operating
423 Non-Federal Entity, unless undertaken by the Contractor with the consent of the Contracting
424 Officer, at the point or points of delivery established pursuant to subdivision (a) of this Article.

425 Upon the request of either party to this Contract, the Contracting Officer shall investigate, or cause
426 to be investigated by the appropriate Operating Non-Federal Entity, the accuracy of such
427 measurements and shall take any necessary steps to adjust any errors appearing therein. For any
428 period of time when accurate measurements have not been made, the Contracting Officer shall

429 consult with the Contractor and the appropriate Operating Non-Federal Entity, if any, prior to
430 making a final determination of the quantity delivered for that period of time.

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

447 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

448 6. (a) The Contractor has established a measuring program satisfactory to the
449 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation
450 purposes within the Contractor's Service Area is measured at each agricultural turnout and such
451 water delivered for M&I purposes is measured at each M&I service connection. The water

452 measuring devices or water measuring methods of comparable effectiveness must be acceptable to
453 the Contracting Officer. The Contractor shall be responsible for installing, operating, and
454 maintaining and repairing all such measuring devices and implementing all such water measuring
455 methods at no cost to the United States. The Contractor shall use the information obtained from
456 such water measuring devices or water measuring methods to ensure its proper management of the
457 water, to bill water users for water delivered by the Contractor; and, if applicable, to record water
458 delivered for M&I purposes by customer class as defined in the Contractor's water conservation
459 plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude
460 the Contractor from establishing and collecting any charges, assessments, or other revenues
461 authorized by California law. The Contractor shall include a summary of all its annual surface
462 water deliveries in the annual report described in subdivision (c) of Article 26.

463 (b) To the extent the information has not otherwise been provided, upon
464 execution of this Contract, the Contractor shall provide to the Contracting Officer a written report
465 describing the measurement devices or water measuring methods being used or to be used to
466 implement subdivision (a) of this Article and identifying the agricultural turnouts and the M&I
467 service connections or alternative measurement programs approved by the Contracting Officer, at
468 which such measurement devices or water measuring methods are being used, and, if applicable,
469 identifying the locations at which such devices and/or methods are not yet being used including a
470 time schedule for implementation at such locations. The Contracting Officer shall advise the
471 Contractor in writing within 60 days as to the adequacy, and necessary modifications, if any, of the
472 measuring devices or water measuring methods identified in the Contractor's report and if the
473 Contracting Officer does not respond in such time, they shall be deemed adequate. If the
474 Contracting Officer notifies the Contractor that the measuring devices or methods are inadequate,

475 the parties shall within 60 days following the Contracting Officer's response, negotiate in good faith
476 the earliest practicable date by which the Contractor shall modify said measuring devices and/or
477 measuring methods as required by the Contracting Officer to ensure compliance with subdivision
478 (a) of this Article.

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

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

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

488 RATES AND METHOD OF PAYMENT FOR WATER

489 7. (a) The Contractor shall pay the United States as provided in this Article for all
490 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance
491 with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's
492 then-existing ratesetting policy for M&I Water, which ratesetting policies shall be amended,
493 modified, or superseded only through a public notice and comment procedure; (ii) applicable
494 Federal Reclamation law and associated rules and regulations, or policies; and (iii) other applicable
495 provisions of this Contract. Payments shall be made by cash transaction, electronic funds transfer,
496 or any other mechanism as may be agreed to in writing by the Contractor and the Contracting

497 Officer. The Rates, Charges, and Tiered Pricing Component applicable to the Contractor upon
498 execution of this Contract are set forth in Exhibit "B," as may be revised annually.

499 (b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and
500 Tiered Pricing Component as follows:

501 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
502 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
503 period October 1, of the current Calendar Year, through September 30, of the following Calendar
504 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months to
505 review and comment on such estimates. On or before September 15 of each Calendar Year, the
506 Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during the
507 period October 1 of the current Calendar Year, through September 30, of the following Calendar
508 Year, and such notification shall revise Exhibit "B."

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

516 (c) At the time the Contractor submits the initial schedule for the delivery of
517 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
518 shall make an advance payment to the United States equal to the total amount payable pursuant to
519 the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be

520 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end
521 of the first month and before the end of each calendar month thereafter, the Contractor shall make
522 an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for
523 the Water Scheduled to be delivered pursuant to this Contract during the second month immediately
524 following. Adjustments between advance payments for Water Scheduled and payments at Rates
525 due for Water Delivered shall be made before the end of the following month; Provided, That any
526 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases
527 the amount of Water Delivered pursuant to this Contract during any month shall be accompanied
528 with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not
529 delivered to the Contractor in advance of such payment. In any month in which the quantity of
530 Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled
531 and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor
532 unless and until an advance payment at the Rates then in effect for such additional Project Water is
533 made. Final adjustment between the advance payments for the Water Scheduled and payments for
534 the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon
535 as practicable but no later than April 30th of the following Year, or 60 days after the delivery of
536 Project Water rescheduled under subdivision (g) of Article 3 of this Contract if such water is not
537 delivered by the last day of February.

538 (d) The Contractor shall also make a payment in addition to the Rate(s) in
539 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
540 appropriate Tiered Pricing Component then in effect, before the end of the month following the
541 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered
542 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent

543 with the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery
544 report for the subject month prepared by the Operating Non-Federal Entity(ies) or, if there is no
545 Operating Non-Federal Entity, by the Contracting Officer. The water delivery report shall be
546 deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water
547 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the
548 adjustment of payments due to the United States for Charges for the next month. Any amount to be
549 paid for past due payment of Charges and the Tiered Pricing Component shall be computed
550 pursuant to Article 20 of this Contract.

551 (e) The Contractor shall pay for any Water Delivered under subdivision (a), (f),
552 or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
553 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;
554 Provided, That the Rate for Water Delivered under subdivision (f) of Article 3 of this Contract shall
555 be no more than the otherwise applicable Rate for Irrigation Water or M&I Water under subdivision
556 (a) of this Article.

557 (f) Payments to be made by the Contractor to the United States under this
558 Contract may be paid from any revenues available to the Contractor.

559 (g) All revenues received by the United States from the Contractor relating to the
560 delivery of Project Water or the delivery of non-Project water through Project facilities shall be
561 allocated and applied in accordance with Federal Reclamation law and the associated rules or
562 regulations, and the then current Project ratesetting policies for M&I Water or Irrigation Water.

563 (h) The Contracting Officer shall keep its accounts pertaining to the
564 administration of the financial terms and conditions of its long-term contracts, in accordance with
565 applicable Federal standards, so as to reflect the application of Project costs and revenues. The

566 Contracting Officer shall, each Year upon request of the Contractor, provide to the Contractor a
567 detailed accounting of all Project and Contractor expense allocations, the disposition of all Project
568 and Contractor revenues, and a summary of all water delivery information. The Contracting Officer
569 and the Contractor shall enter into good faith negotiations to resolve any discrepancies or disputes
570 relating to accountings, reports, or information.

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

578 (j) (1) Beginning at such time as deliveries of Project Water in a Year
579 exceed 80 percent of the Contract Total, then before the end of the month following the month of
580 delivery the Contractor shall make an additional payment to the United States equal to the
581 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
582 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
583 Contract Total, shall equal one-half of the difference between the Rate established under
584 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate,
585 whichever is applicable. The Tiered Pricing Component for the amount of Water Delivered which
586 exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate established
587 under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost
588 Water Rate, whichever is applicable.

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

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

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

610 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
611 the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates, in

612 accordance with the applicable Project ratesetting policy, adjusted upward or downward to reflect
613 the changed costs, if any, incurred by the Contracting Officer in the delivery of the transferred
614 Project Water to the transferee's point of delivery. If the Contractor is receiving lower Rates and
615 Charges because of inability to pay and is transferring Project Water to another entity whose Rates
616 and Charges are not adjusted due to inability to pay, the Rates and Charges for transferred Project
617 Water shall not be adjusted to reflect the Contractor's inability to pay.

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

620 (n) With respect to the Rates for M&I Water, the Contractor asserts that it is not
621 legally obligated to pay any Project deficits claimed by the United States to have accrued as of the
622 date of this Contract or deficit-related interest charges thereon. By entering into this Contract, the
623 Contractor does not waive any legal rights or remedies that it may have with respect to such
624 disputed issues. Notwithstanding the execution of this Contract and payments made hereunder, the
625 Contractor may challenge in the appropriate administrative or judicial forums; (1) the existence,
626 computation, or imposition of any deficit charges accruing during the term of the Existing Contract
627 and any preceding interim renewal contracts, if applicable; (2) interest accruing on any such
628 deficits; (3) the inclusion of any such deficit charges or interest in the Rates; (4) the application by
629 the United States of payments made by the Contractor under its Existing Contract and any
630 preceding interim renewal contracts if applicable; and (5) the application of such payments in the
631 Rates. The Contracting Officer agrees that the Contractor shall be entitled to the benefit of any
632 administrative or judicial ruling in favor of any Project M&I contractor on any of these issues, and
633 credits for payments heretofore made, provided that the basis for such ruling is applicable to the
634 Contractor.

635 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

639 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

651 (b) In order to facilitate efficient water management by means of water transfers
652 of the type historically carried out among Project Contractors located within the same geographical
653 area and to allow the Contractor to participate in an accelerated water transfer program during the
654 term of this Contract, the Contracting Officer shall prepare, as appropriate, all necessary
655 environmental documentation, including but not limited to documents prepared pursuant to NEPA
656 and ESA, analyzing annual transfers within such geographical areas and the Contracting Officer
657 shall determine whether such transfers comply with applicable law. Following the completion of

658 the environmental documentation, such transfers addressed in such documentation shall be
659 conducted with advance notice to the Contracting Officer, but shall not require prior written
660 approval by the Contracting Officer. Such environmental documentation and the Contracting
661 Officer's compliance determination shall be reviewed every five years and updated, as necessary,
662 prior to the expiration of the then existing five-year period. All subsequent environmental
663 documentation shall include an alternative to evaluate not less than the quantity of Project Water
664 historically transferred within the same geographical area.

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

675 APPLICATION OF PAYMENTS AND ADJUSTMENTS

676 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
677 capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
678 the Contractor arising out of this Contract then due and payable. Overpayments of more than
679 \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount of such
680 overpayment at the option of the Contractor may be credited against amounts to become due to the

681 United States by the Contractor. With respect to overpayment, such refund or adjustment shall
682 constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the
683 use of any of the Project Water supply provided for herein. All credits and refunds of overpayments
684 shall be made within 30 days of the Contracting Officer obtaining direction as to how to credit or
685 refund such overpayment in response to the notice to the Contractor that it has finalized the
686 accounts for the Year in which the overpayment was made.

687 (b) All advances for miscellaneous costs incurred for work requested by the
688 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when
689 the work has been completed. If the advances exceed the actual costs incurred, the difference will
690 be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor
691 will be billed for the additional costs pursuant to Article 25.

692 TEMPORARY REDUCTIONS--RETURN FLOWS

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

698 (b) The Contracting Officer or Operating Non-Federal Entity(ies) may
699 temporarily discontinue or reduce the quantity of Water Delivered and Replacement Water
700 Delivered to the Contractor as herein provided for the purposes of investigation, inspection,
701 maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for
702 the delivery of Project Water and Replacement Water to the Contractor, but so far as feasible the
703 Contracting Officer or Operating Non-Federal Entity(ies) will give the Contractor due notice in

704 advance of such temporary discontinuance or reduction, except in case of emergency, in which case
705 no notice need be given; Provided, That the United States shall use its best efforts to avoid any
706 discontinuance or reduction in such service. Upon resumption of service after such reduction or
707 discontinuance, and if requested by the Contractor, the United States will, if possible, deliver the
708 quantity of Project Water and Replacement Water which would have been delivered hereunder in
709 the absence of such discontinuance or reduction.

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

716 CONSTRAINTS ON THE AVAILABILITY OF WATER

717 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable
718 means to guard against a Condition of Shortage in the quantity of water to be made available to the
719 Contractor pursuant to this Contract. In the event the Contracting Officer determines that a
720 Condition of Shortage appears probable, the Contracting Officer will notify the Contractor of said
721 determination as soon as practicable.

722 (b) If there is a Condition of Shortage because of errors in physical operations of
723 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
724 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision
725 (a) of Article 18 of this Contract, no liability shall accrue against the United States or any of its
726 officers, agents, or employees for any damage, direct or indirect, arising therefrom.

727 (c) In any Year in which there may occur a Condition of Shortage for any of the
728 reasons specified in subdivision (b) of this Article, and subject to subdivision (d) of this Article, the
729 Contracting Officer will first allocate the available Project Water consistent with the draft CVP
730 M&I Water Shortage Policy on the effective date of this Contract as finally adopted after
731 environmental review for determining the amount of Project Water available for delivery to the
732 Project Contractors. Subject to the foregoing allocation, in any year in which there may occur a
733 Condition of Shortage, the Contracting Officer shall then apportion Project Water among the
734 Contractor and others entitled to Project Water from Delta Division Facilities under long-term water
735 service or repayment contracts (or renewals thereof or binding commitments therefore) in force on
736 February 28, 2005, as follows:

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

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

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

750 (4) The available supply shall be multiplied by the Contractor's
751 proportionate share and the result shall be the quantity of Project Water made available by the
752 United States to the Contractor for the relevant Year in accordance with the schedule developed by
753 the Contracting Officer under subdivision (c)(1) of this Article 12, but in no event shall such
754 amount exceed the Contract Total. In the event the Contracting Officer subsequently determines
755 that the Contracting Officer can increase or needs to decrease the available supply for delivery from
756 Delta Division Facilities to long-term water service and repayment Contractors during the relevant
757 Year, such additions or reductions to the available supply shall be apportioned consistent with
758 subparagraphs (1) through (4), inclusive.

759 (d) By entering into this Contract, the Contractor does not waive any legal rights
760 or remedies it may have to file or participate in any administrative or judicial proceeding contesting
761 (i) the sufficiency of the Central Valley Project M&I Water Shortage Policy; (ii) the substance of
762 such a policy; (iii) the applicability of such a policy; or (iv) the manner in which such policy is
763 implemented in order to allocate Project Water between municipal and industrial and irrigation
764 purposes; Provided, That the Contractor has commenced any such judicial challenge or any
765 administrative procedures necessary to institute any judicial challenge within six months of the
766 policy becoming final. By agreeing to the foregoing, the Contracting Officer does not waive any
767 legal defenses or remedies that it may have to assert in such a proceeding. Nothing contained herein
768 shall be interpreted to validate or invalidate the Central Valley Project M&I Water Shortage Policy.

769 (e) Notwithstanding any other provision of this Contract, Replacement Water
770 will bear shortages and be reduced in accordance with the terms of the Second Amended Contract
771 for Exchange of Waters, dated February 14, 1968, between the United States and the Central

772 California Irrigation District, Columbia Canal Company, San Luis Canal Company, and Firebaugh
773 Canal Company, Contract No. I1r-1144.

774 UNAVOIDABLE GROUNDWATER PERCOLATION

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

779 RULES AND REGULATIONS

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

784 WATER AND AIR POLLUTION CONTROL

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

788 QUALITY OF WATER

789
790 16. (a) Project facilities used to deliver Project Water and Replacement Water to the
791 Contractor pursuant to this Contract shall be operated and maintained to enable the United States to
792 deliver Project Water and Replacement Water to the Contractor in accordance with the water quality
793 standards specified in subsection 2(b) of the Act of August 26, 1937 (50 Stat. 865), as added by
794 Section 101 of the Act of October 27, 1986 (100 Stat. 3050) or other existing Federal laws. The
795 United States is under no obligation to construct or furnish water treatment facilities to maintain or
796 to improve the quality of Water Delivered to the Contractor pursuant to this Contract. The United
797 States does not warrant the quality of Water Delivered to the Contractor pursuant to this Contract.

798 (b) The O&M of Project facilities shall be performed in such manner as is
799 practicable to maintain the quality of raw water made available through such facilities at the highest
800 level reasonably attainable as determined by the Contracting Officer. The Contractor shall be
801 responsible for compliance with all State and Federal water quality standards applicable to surface
802 and subsurface agricultural drainage discharges generated through the use of Federal or Contractor
803 facilities or Project Water provided by the Contractor within the Contractor's Service Area.

804 (c) Omitted.

805 WATER ACQUIRED BY THE CONTRACTOR
806 OTHER THAN FROM THE UNITED STATES

807 17. (a) Water or water rights now owned or hereafter acquired by the Contractor
808 other than from the United States and Irrigation Water furnished pursuant to the terms of this
809 Contract may be simultaneously transported through the same distribution facilities of the
810 Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water
811 and non-Project water were constructed without funds made available pursuant to Federal
812 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the
813 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation
814 Water must be established through the certification requirements as specified in the Acreage
815 Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of Eligible Lands
816 within the Contractor's Service Area can be established and the quantity of Irrigation Water to be
817 utilized is less than or equal to the quantity necessary to irrigate such Eligible Lands; and (iv) if the
818 facilities utilized for commingling Irrigation Water and non-Project water are/were constructed with
819 funds made available pursuant to Federal Reclamation law, the non-Project water will be subject to
820 the acreage limitation provisions of Federal Reclamation law, unless the Contractor pays to the
821 United States the incremental fee described in 43 CFR 426.15. In determining the incremental fee,

822 the Contracting Officer will calculate annually the cost to the Federal Government, including
823 interest of storing or delivering non-Project water, which for purposes of this Contract shall be
824 determined as follows: The quotient shall be the unpaid distribution system costs divided by the
825 total irrigable acreage within the Contractor's Service Area. The incremental fee per acre is the
826 mathematical result of such quotient times the interest rate determined using Section 202 (3) of the
827 Act of October 12, 1982 (96 Stat. 1263). Such incremental fee will be charged to each acre of
828 excess or full cost land within the Contractor's Service Area that receives non-Project water through
829 Federally financed or constructed facilities. The incremental fee calculation methodology will
830 continue during the term of this Contract absent the promulgation of a contrary Reclamation-wide
831 rule, regulation, or policy adopted after the Contractor has been afforded the opportunity to review
832 and comment on the proposed rule, regulation, or policy. If such rule, regulation, or policy is
833 adopted it shall supersede this provision.

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

839 (1) The Contractor may introduce non-Project water into Project facilities
840 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,
841 subject to payment to the United States and/or to any applicable Operating Non-Federal Entity of an
842 appropriate rate as determined by the applicable Project ratesetting policy, the RRA, and the Project
843 use power policy, if such Project use power policy is applicable, each as amended, modified or
844 superseded from time to time.

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

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

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

861 (5) After Project purposes are met, as determined by the Contracting
862 Officer, the United States and Project Contractors entitled to Project Water from Delta Division
863 Facilities shall share priority to utilize the remaining capacity of the facilities declared to be
864 available by the Contracting Officer for conveyance and transportation of non-Project water prior to
865 any such remaining capacity being made available to non-Project contractors. Other Project
866 Contractors shall have a second priority to any remaining capacity of facilities declared to be

867 available by the Contracting Officer for conveyance and transportation of non-Project water prior to
868 any such remaining capacity being made available to non-Project contractors.

869 OPINIONS AND DETERMINATIONS

870 18. (a) Where the terms of this Contract provide for actions to be based upon the
871 opinion or determination of either party to this Contract, said terms shall not be construed as
872 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
873 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
874 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
875 unreasonable opinion or determination. Each opinion or determination by either party shall be
876 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall
877 affect or alter the standard of judicial review applicable under Federal law to any opinion or
878 determination implementing a specific provision of Federal law embodied in statute or regulation.

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

884 COORDINATION AND COOPERATION

885 19. (a) In order to further their mutual goals and objectives, the Contracting Officer
886 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other
887 affected Project Contractors, in order to improve the operation and management of the Project. The
888 communication, coordination, and cooperation regarding operations and management shall include,
889 but not be limited to, any action which will or may materially affect the quantity or quality of

890 Project Water supply, the allocation of Project Water supply, and Project financial matters
891 including, but not limited to, budget issues. The communication, coordination, and cooperation
892 provided for hereunder shall extend to all provisions of this Contract. Each party shall retain
893 exclusive decision making authority for all actions, opinions, and determinations to be made by the
894 respective party.

895 (b) Within 120 days following the effective date of this Contract, the Contractor,
896 other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested
897 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be
898 amended as necessary separate and apart from this Contract. The goal of this process shall be to
899 provide, to the extent practicable, the means of mutual communication and interaction regarding
900 significant decisions concerning Project operation and management on a real-time basis.

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

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

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

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

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

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

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

923 CHARGES FOR DELINQUENT PAYMENTS

924 20. (a) The Contractor shall be subject to interest, administrative and penalty charges
 925 on delinquent installments or payments. When a payment is not received by the due date, the
 926 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
 927 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
 928 charge to cover additional costs of billing and processing the delinquent payment. When a payment
 929 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
 930 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
 931 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
 932 payment.

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

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

941 EQUAL OPPORTUNITY

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

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

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

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

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

964 (e) The Contractor will furnish all information and reports required by said
 965 amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or
 966 pursuant thereto, and will permit access to its books, records, and accounts by the Contracting
 967 Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such
 968 rules, regulations, and orders.

969 (f) In the event of the Contractor's noncompliance with the nondiscrimination
 970 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
 971 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared
 972 ineligible for further Government contracts in accordance with procedures authorized in said
 973 amended Executive Order, and such other sanctions may be imposed and remedies invoked as
 974 provided in said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as
 975 otherwise provided by law.

976 (g) The Contractor will include the provisions of paragraphs (a) through (g) in
 977 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
 978 Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such
 979 provisions will be binding upon each subcontractor or vendor. The Contractor will take such action
 980 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a
 981 means of enforcing such provisions, including sanctions for noncompliance: Provided, however,
 982 That in the event the Contractor becomes involved in, or is threatened with, litigation with a

983 subcontractor or vendor as a result of such direction, the Contractor may request the United States
984 to enter into such litigation to protect the interests of the United States.

985 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

986 22. (a) The obligation of the Contractor to pay the United States as provided in this
987 Contract is a general obligation of the Contractor notwithstanding the manner in which the
988 obligation may be distributed among the Contractor's water users and notwithstanding the default of
989 individual water users in their obligations to the Contractor.

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

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

998 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

999 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
1000 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
1001 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws,
1002 as well as with their respective implementing regulations and guidelines imposed by the U.S.
1003 Department of the Interior and/or Bureau of Reclamation.

1004 (b) These statutes require that no person in the United States shall, on the
1005 grounds of race, color, national origin, handicap, or age, be excluded from participation in, be
1006 denied the benefits of, or be otherwise subjected to discrimination under any program or activity
1007 receiving financial assistance from the Bureau of Reclamation. By executing this Contract, the
1008 Contractor agrees to immediately take any measures necessary to implement this obligation,
1009 including permitting officials of the United States to inspect premises, programs, and documents.

1010 (c) The Contractor makes this agreement in consideration of and for the purpose
1011 of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal
1012 financial assistance extended after the date hereof to the Contractor by the Bureau of Reclamation,
1013 including installment payments after such date on account of arrangements for Federal financial
1014 assistance which were approved before such date. The Contractor recognizes and agrees that such
1015 Federal assistance will be extended in reliance on the representations and agreements made in this
1016 Article, and that the United States reserves the right to seek judicial enforcement thereof.

1017

PRIVACY ACT COMPLIANCE

1018 24. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a)
 1019 (the Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et
 1020 seq.) in maintaining Landholder acreage certification and reporting records, required to be
 1021 submitted to the Contractor for compliance with Sections 206 and 228 of the Reclamation Reform
 1022 Act of 1982 (96 Stat. 1266), and pursuant to 43 CFR 426.18.

1023 (b) With respect to the application and administration of the criminal penalty
 1024 provisions of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible
 1025 for maintaining the certification and reporting records referenced in (a) above are considered to be
 1026 employees of the Department of the Interior. See 5 U.S.C. 552a(m).

1027 (c) The Contracting Officer or a designated representative shall provide the
 1028 Contractor with current copies of the Interior Department Privacy Act regulations and the Bureau of
 1029 Reclamation Federal Register Privacy Act System of Records Notice (Acreage Limitation--Interior,
 1030 Reclamation-31) which govern the maintenance, safeguarding, and disclosure of information
 1031 contained in the Landholder's certification and reporting records.

1032 (d) The Contracting Officer shall designate a full-time employee of the Bureau of
 1033 Reclamation to be the System Manager who shall be responsible for making decisions on denials
 1034 pursuant to 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is
 1035 authorized to grant requests by individuals for access to their own records.

1036 (e) The Contractor shall forward promptly to the System Manager each proposed
 1037 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR
 1038 2.71; notify the requester accordingly of such referral; and provide the System Manager with
 1039 information and records necessary to prepare an appropriate response to the requester. These
 1040 requirements do not apply to individuals seeking access to their own certification and reporting
 1041 forms filed with the Contractor pursuant to 43 CFR 426.18, unless the requester elects to cite the
 1042 Privacy Act as a basis for the request.

1043 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1044 25. In addition to all other payments to be made by the Contractor pursuant to this
 1045 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
 1046 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of
 1047 direct cost incurred by the United States for work requested by the Contractor associated with this
 1048 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
 1049 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in

1050 writing in advance by the Contractor. This Article shall not apply to costs for routine contract
1051 administration.

1052 WATER CONSERVATION

1053 26. (a) Prior to the delivery of water provided from or conveyed through Federally
1054 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be
1055 implementing an effective water conservation and efficiency program based on the Contractor's
1056 water conservation plan that has been determined by the Contracting Officer to meet the
1057 conservation and efficiency criteria for evaluating water conservation plans established under
1058 Federal law. The water conservation and efficiency program shall contain definite water
1059 conservation objectives, appropriate economically feasible water conservation measures, and time
1060 schedules for meeting those objectives. Continued Project Water delivery pursuant to this Contract
1061 shall be contingent upon the Contractor's continued implementation of such water conservation
1062 program. In the event the Contractor's water conservation plan or any revised water conservation
1063 plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been
1064 determined by the Contracting Officer to meet such criteria, due to circumstances which the
1065 Contracting Officer determines are beyond the control of the Contractor, water deliveries shall be
1066 made under this Contract so long as the Contractor diligently works with the Contracting Officer to
1067 obtain such determination at the earliest practicable date, and thereafter the Contractor immediately
1068 begins implementing its water conservation and efficiency program in accordance with the time
1069 schedules therein.

1070 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1071 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall implement
1072 the Best Management Practices identified by the time frames issued by the California Urban Water

1073 Conservation Council for such M&I Water unless any such practice is determined by the
1074 Contracting Officer to be inappropriate for the Contractor.

1075 (c) The Contractor shall submit to the Contracting Officer a report on the status
1076 of its implementation of the water conservation plan on the reporting dates specified in the then
1077 existing conservation and efficiency criteria established under Federal law.

1078 (d) At five-year intervals, the Contractor shall revise its water conservation plan
1079 to reflect the then current conservation and efficiency criteria for evaluating water conservation
1080 plans established under Federal law and submit such revised water management plan to the
1081 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the
1082 water conservation plan meets Reclamation's then current conservation and efficiency criteria for
1083 evaluating water conservation plans established under Federal law.

1084 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1085 shall be described in the Contractor's water conservation plan.

1086 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1087 27. Except as specifically provided in Article 17 of this Contract, the provisions of this
1088 Contract shall not be applicable to or affect non-project water or water rights now owned or
1089 hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area.
1090 Any such water shall not be considered Project Water under this Contract. In addition, this Contract
1091 shall not be construed as limiting or curtailing any rights which the Contractor or any water user
1092 within the Contractor's Service Area acquires or has available under any other contract pursuant to
1093 Federal Reclamation law.

1094 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1095 28. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1096 and responsibility for funding a portion of the costs of such O&M, have been transferred to the San
1097 Luis & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate agreement
1098 (8-07-20-X0354) between the United States and the Operating Non-Federal Entity San Luis &
1099 Delta-Mendota Water Authority. That separate agreement shall not interfere with or affect the
1100 rights or obligations of the Contractor or the United States hereunder.

1101 (b) The Contracting Officer has previously notified the Contractor in writing that
1102 the Operation and Maintenance of a portion of the Project facilities which serve the Contractor has
1103 been transferred to the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority,
1104 and therefore, the Contractor shall pay directly to the Operating Non-Federal Entity San Luis &
1105 Delta-Mendota Water Authority, or to any successor approved by the Contracting Officer under the
1106 terms and conditions of the separate agreement between the United States and the Operating Non-
1107 Federal Entity San Luis & Delta-Mendota Water Authority described in subdivision (a) of this
1108 Article, all rates, charges, or assessments of any kind, including any assessment for reserve funds,
1109 which the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or such
1110 successor determines, sets, or establishes for the O&M of the portion of the Project facilities
1111 operated and maintained by the Operating Non-Federal Entity San Luis & Delta-Mendota Water
1112 Authority or such successor. Such direct payments to the Operating Non-Federal Entity San Luis &
1113 Delta-Mendota Water Authority or such successor shall not relieve the Contractor of its obligation
1114 to pay directly to the United States the Contractor's share of the Project Rates, Charges, and Tiered
1115 Pricing Component except to the extent the Operating Non-Federal Entity San Luis &

1116 Delta-Mendota Water Authority collects payments on behalf of the United States in accordance
 1117 with the separate agreement identified in subdivision (a) of this Article.

1118 (c) For so long as the O&M of any portion of the Project facilities serving the
 1119 Contractor is performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water
 1120 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the
 1121 Rates for Water Delivered under this Contract representing the cost associated with the activity
 1122 being performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority
 1123 or its successor.

1124 (d) In the event the O&M of the Project facilities operated and maintained by the
 1125 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by the
 1126 United States during the term of this Contract, the Contracting Officer shall so notify the
 1127 Contractor, in writing, and present to the Contractor a revised Exhibit "B" which shall include the
 1128 portion of the Rates to be paid by the Contractor for Project Water under this Contract representing
 1129 the O&M costs of the portion of such Project facilities which have been re-assumed. The
 1130 Contractor shall, thereafter, in the absence of written notification from the Contracting Officer to the
 1131 contrary, pay the Rates, Charges, and Tiered Pricing Component specified in the revised Exhibit
 1132 "B" directly to the United States in compliance with Article 7 of this Contract.

1133 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1134 29. The expenditure or advance of any money or the performance of any obligation of
 1135 the United States under this Contract shall be contingent upon appropriation or allotment of funds.
 1136 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
 1137 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
 1138 or allotted.

1139 BOOKS, RECORDS, AND REPORTS

1140 30. (a) The Contractor shall establish and maintain accounts and other books and
 1141 records pertaining to administration of the terms and conditions of this Contract, including: the

1142 Contractor's financial transactions, water supply data, and Project land and right-of-way
1143 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1144 data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished
1145 to the Contracting Officer in such form and on such date or dates as the Contracting Officer may
1146 require. Subject to applicable Federal laws and regulations, each party to this Contract shall have
1147 the right during office hours to examine and make copies of the other party's books and records
1148 relating to matters covered by this Contract.

1149 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,
1150 records, or other information shall be requested from the Contractor by the Contracting Officer
1151 unless such books, records, or information are reasonably related to the administration or
1152 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1153 time within which to provide the requested books, records, or information.

1154 (c) At such time as the Contractor provides information to the Contracting
1155 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided to
1156 the Operating Non-Federal Entity.

1157 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1158 31. (a) The provisions of this Contract shall apply to and bind the successors and
1159 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1160 therein shall be valid until approved in writing by the Contracting Officer.

1161 (b) The assignment of any right or interest in this Contract by either party shall
1162 not interfere with the rights or obligations of the other party to this Contract absent the written
1163 concurrence of said other party.

1164 (c) The Contracting Officer shall not unreasonably condition or withhold
1165 approval of any proposed assignment.

1166 SEVERABILITY

1167 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
1168 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an

1169 association or other form of organization whose primary function is to represent parties to Project
1170 contracts, brings an action in a court of competent jurisdiction challenging the legality or
1171 enforceability of a provision included in this Contract and said person, entity, association, or
1172 organization obtains a final court decision holding that such provision is legally invalid or
1173 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
1174 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court
1175 decision identify by mutual agreement the provisions in this Contract which must be revised and (ii)
1176 within three months thereafter promptly agree on the appropriate revision(s). The time periods
1177 specified above may be extended by mutual agreement of the parties. Pending the completion of
1178 the actions designated above, to the extent it can do so without violating any applicable provisions
1179 of law, the United States shall continue to make the quantities of Project Water specified in this
1180 Contract available to the Contractor pursuant to the provisions of this Contract which were not
1181 found to be legally invalid or unenforceable in the final court decision.

1182 RESOLUTION OF DISPUTES

1183 33. Should any dispute arise concerning any provisions of this Contract, or the parties'
1184 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
1185 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring
1186 any matter to the Department of Justice, the party shall provide to the other party 30 days' written
1187 notice of the intent to take such action; Provided, That such notice shall not be required where a
1188 delay in commencing an action would prejudice the interests of the party that intends to file suit.
1189 During the 30-day notice period, the Contractor and the Contracting Officer shall meet and confer in
1190 an attempt to resolve the dispute. Except as specifically provided, nothing herein is intended to
1191 waive or abridge any right or remedy that the Contractor or the United States may have.

1192

OFFICIALS NOT TO BENEFIT

1193 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
 1194 Contractor shall benefit from this Contract other than as a water user or landowner in the same
 1195 manner as other water users or landowners.

1196

CHANGES IN CONTRACTOR'S SERVICE AREA

1197 35. (a) While this Contract is in effect, no change may be made in the Contractor's
 1198 Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
 1199 except upon the Contracting Officer's written consent.

1200

(b) Within 30 days of receipt of a request for such a change, the Contracting
 1201 Officer will notify the Contractor of any additional information required by the Contracting Officer
 1202 for processing said request, and both parties will meet to establish a mutually agreeable schedule for
 1203 timely completion of the process. Such process will analyze whether the proposed change is likely
 1204 to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability
 1205 of the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-
 1206 constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project
 1207 Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply
 1208 with the NEPA and the ESA. The Contractor will be responsible for all costs incurred by the
 1209 Contracting Officer in this process, and such costs will be paid in accordance with Article 25 of this
 1210 Contract.

1211

FEDERAL LAWS

1212 36. By entering into this Contract, the Contractor does not waive its rights to contest the
 1213 validity or application in connection with the performance of the terms and conditions of this
 1214 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with the
 1215 terms and conditions of this Contract unless and until relief from application of such Federal law or

1216 regulation to the implementing provision of the Contract is granted by a court of competent
1217 jurisdiction.

1218 NOTICES

1219 37. Any notice, demand, or request authorized or required by this Contract shall be
1220 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
1221 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California
1222 93721, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Board
1223 of Directors of the Patterson Irrigation District, 948 Orange Avenue or P. O. Box 685, Patterson,
1224 California 95363. The designation of the addressee or the address may be changed by notice given
1225 in the same manner as provided in this Article for other notices.

1226 CONFIRMATION OF CONTRACT

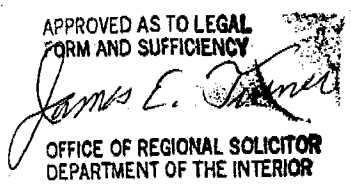
1227 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a
1228 decree of a court of competent jurisdiction of the State of California, confirming the execution of
1229 this Contract. The Contractor shall furnish the United States a certified copy of the final decree, the
1230 validation proceedings, and all pertinent supporting records of the court approving and confirming
1231 this Contract, and decreeing and adjudging it to be lawful, valid, and binding on the Contractor.

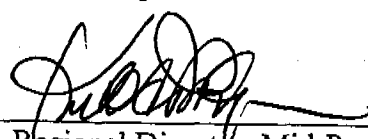
1232 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1233 year first above written.

1234

THE UNITED STATES OF AMERICA

1235
1236
1237



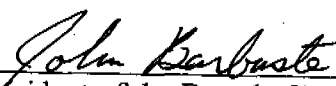
By: 
Regional Director, Mid-Pacific Region
Bureau of Reclamation

1238 (SEAL)

1239

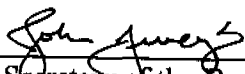
PATTERSON IRRIGATION DISTRICT

1240
1241

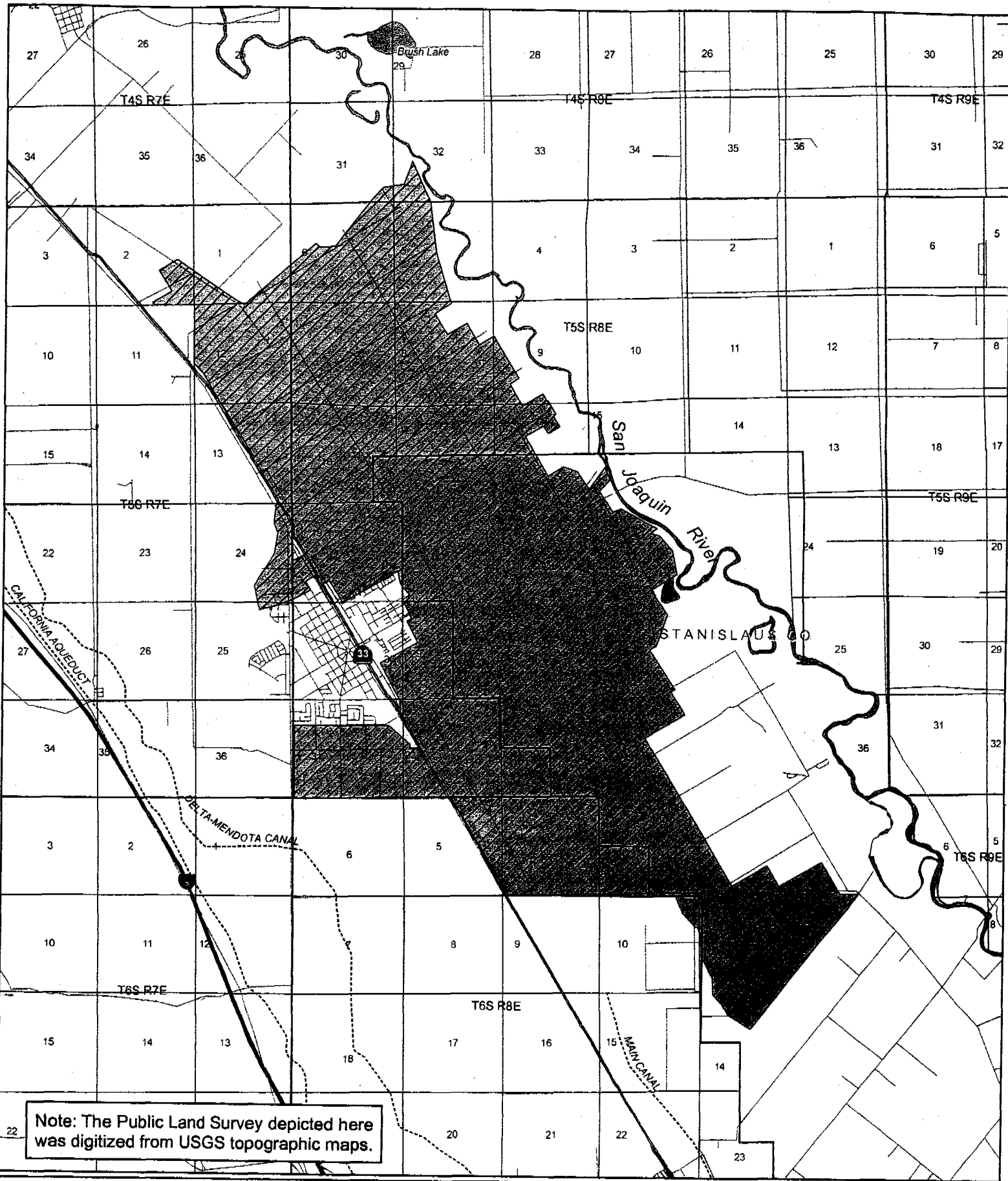
By: 
President of the Board of Directors

1242 Attest:

1243
1244

By: 
Secretary of the Board of Directors

1245 (H:\pub 440\LTRC\Final Draft LTRC's - Fresno, Tracy\09-27-04 Patterson ID Final Draft LTRC
1246 with exhibits.doc)



Note: The Public Land Survey depicted here was digitized from USGS topographic maps.

Patterson I.D.

Contract No. 14-06-200-3500A-LTR1
EXHIBIT A



-  District Boundary
-  Contractor's Service Area



EXHIBIT B
PATTERSON IRRIGATION DISTRICT
Water Rates and Charges

	<u>2005 Rates Per Acre-Foot</u>	
	<u>Irrigation Water</u>	<u>M&I Water¹</u>
COST-OF-SERVICE (COS) RATES:		
Capital Rates:	\$10.90	
O&M Rates:		
Water Marketing	\$ 6.61	
Storage	\$ 5.93	
Conveyance	*	
Conveyance Pumping	*	
Deficit Rates:		
Non-Interest Bearing		
Interest Bearing	\$ 1.15	
CFO/PFR Adjustment Rate ²		
<u>TOTAL COST-OF-SERVICE RATES (COS):</u>	\$24.59	\$0.00
<u>FULL-COST RATES:</u>		
Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	\$39.21	
<u>205 FULL-COST RATES:</u>		
Section 205(a)(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient that did <u>not</u> receive irrigation water on or before October 1, 1981.	\$46.38	
Tiered Pricing Component >80% <=90% of Contract		
Total [Full Cost Rate - COS Rate /2]:	\$ 7.31	
Tiered Pricing Component >90% of Contract		
Total [Full Cost Rate - COS Rate]:	\$14.62	
SURCHARGES UNDER P.L. 102-575		
TO RESTORATION FUND**	\$ 7.93	\$15.87

* Conveyance and Conveyance Pumping Operation and maintenance costs were removed for ratesetting purposes and are to be billed directly to the water authorities.

** The surcharges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund surcharges under P.L. 102-575 are on a fiscal year basis (10/1-9/30).

¹ To be provided as needed. Contractor does not currently receive M&I water and is not projected to take any in the near future.

² Rate represents Chief Financial Officers (CFO) Adjustment and Provision for Replacement (PFR) credit for option 2 cost deferral to be distributed over 5-year period beginning with 2003 water rates.

RESOLUTION NO. 1-05

THE PATTERSON IRRIGATION DISTRICT

**RESOLUTION CONSIDERING ENVIRONMENTAL
IMPACTS OF LONG-TERM RENEWAL
CONTRACT FOR CENTRAL VALLEY PROJECT WATER SERVICE,
APPROVING LONG-TERM RENEWAL CONTRACT,
AUTHORIZING EXECUTION THEREOF AND
AUTHORIZING RELATED ACTIONS**

WHEREAS, Patterson Irrigation District ("District") entered into that certain contract between the United States and The Patterson Irrigation District Providing for Water Service, Contract No. 4-06-200-3598A dated September 18, 1967 (the "Original Contract"), providing for the delivery of up to 16,500 acre feet of Central Valley Project water ("Project Water") and 6,000 acre feet of replacement water ("Replacement Water"), diverted through Central Valley Project facilities and the District's distribution system; and

WHEREAS, the Original Contract expired in 1995 and the District has entered into successive contracts to renew the Original Contract for each of the years since the expiration of the Original Contract (the "Interim Renewal Contract" or collectively, the "Interim Renewal Contracts"), continuing the same water service under substantially the same terms and conditions, except for price and length of term, as was provided in the Original Contract.

WHEREAS, the current Interim Renewal Contract will expire on February 28, 2005.

WHEREAS, the United States has offered the District a Long-Term Renewal Contract for a term of twenty-five (25) years, on substantially the same substantive terms and conditions as included in the most recent Interim Renewal Contract, Contract No. 14-06-200-3598A-IR8 between the District and the United States, which is on file with the Secretary of the Board (the Long-Term Renewal Contract).

WHEREAS, the District has fully utilized, for reasonable and beneficial use, all water provided under the Original Contract and the Interim Renewal Contracts by receiving and delivering such water to lands within the District's boundaries for irrigation purposes, or putting such water to beneficial use through conservation and transfer in accordance with California law, and there is continuing need for such water over the next twenty-five (25) years as documented in Reclamation's water needs analysis for the Contract.

WHEREAS, it is imperative to the District and its landowners that the District renew, on a long-term basis, its water service contract with the United States of America

pursuant to the Act of Congress of July 2, 1956 (70 Stat. 483) and the Act of Congress of October 30, 1992 (96 Stat. 1262), in order to provide for continued delivery of the same quantity of water to lands within the District's boundaries for a term of twenty-five (25) years.

WHEREAS, the Board has reviewed the terms of the proposed Long-Term Renewal Contract.

WHEREAS, water made available under the Long-Term Renewal Contract will be diverted through the same Central Valley Project facilities as the water provided under the Original Contract and the Interim Renewal Contracts.

WHEREAS, no expansion of water service will occur under the Long-Term Renewal Contract, as the District will distribute water received through the same distribution system as used for the Original Contract and Interim Renewal Contracts and will provide water under such renewal to the same lands within the boundaries of the District.

WHEREAS, the District has copies of contracts, water delivery reports, crop information and other data supporting these findings.

WHEREAS, the Board of Directors of the District has reviewed that certain memorandum re Preliminary Environmental Assessment – Long-Term Renewal Contract from the District Manager, which is on file with the Secretary of the Board, and which concludes that the District's action in approving the Long-Term Renewal Contract is a project that is exempt from further proceedings pursuant to the California Environmental Quality Act ("CEQA") for the reasons in said memorandum set forth.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

Section 1. The facts set forth in the recitals above and in the documents referenced therein are true and correct, and the Board of Directors so finds and determines.

Section 2. The Long-Term Renewal Contract in substantially the form presented to the Board and on file with the Secretary hereof is hereby approved.

Section 3. The President and Secretary of the District are hereby authorized and directed to execute the Long-Term Renewal Contract in substantially the form presented to the Board, subject to such additions, deletions and revisions as the executing officers may approve prior to execution, said execution providing conclusive proof of such approval.

Section 4. The Board further finds that:

A. Approval of the Long-Term Renewal Contract is statutorily exempt from further compliance with CEQA as provided in Title 14 of the California Code of Regulations ("CFR"), Section 15261, because it is merely the continuation of a project approved, funded and fully operated prior to November 23, 1970, and no modification or alteration in the Central Valley Project, the District distribution system or the amount of water delivered is proposed.

B. Insofar as the Long-Term Renewal Contract calls for changes in rates, such changes are statutorily exempt from further compliance with CEQA as provided in Title 14 CFR Section 15273(a).

C. Approval of the Long-Term Renewal Contract is categorically exempt from further proceedings under CEQA pursuant to Title 14 CFR Section 15301, because it merely provides for continued operation of an existing facility.

D. Approval of the Long-Term Renewal Project will not create any effects on the environment that make categorical exemptions inapplicable pursuant to Title 14 CFR 15300.2.


Section 5. The Manager of the District is hereby authorized and directed to prepare and file within 5 days a Notice of Exemption with the County Clerk or Clerks of County for the District's Long-Term Renewal Contract for Central Valley Project Water Service, in accordance with Section 15062(b) of Title 14 of the California Code of Regulations.

Section 6. The District's officers, staff and consultants are hereby authorized and directed to take all additional actions that they deem necessary or appropriate to carry out the intent of this Resolution and to ensure continued water service to the District and its water users.

Passed and adopted this 10th day of February, 2005.

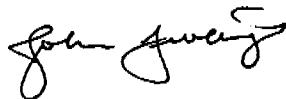

_____, President
Patterson Irrigation District

ATTEST:



Secretary

I HEREBY CERTIFY that the foregoing is the resolution of said District as duly passed and adopted by said Board of Directors at a meeting thereof duly called and held on this 10th day of February, 2005.

A handwritten signature in cursive script, appearing to read "John Sweigard".

John Sweigard, Acting District Secretary