



AGENDA

SPECIAL MEETING OF THE BOARD OF DIRECTORS

January 11, 2021 — 9:00 A.M.

Board of Directors

Pat Dwyer—Division 2
President

Lori Anzini—Division 4
Vice President

George Osborne—Division 1
Director

Brian K. Veerkamp—Division 3
Director

Alan Day—Division 5
Director

Executive Staff

Jim Abercrombie
General Manager

Brian D. Poulsen, Jr.
General Counsel

Jennifer Sullivan
Clerk to the Board

Jesse Saich
Communications

Brian Mueller
Engineering

Mark Price
Finance

Jose Perez
Human Resources

Tim Ranstrom
Information Technology

Dan Corcoran
Operations

PUBLIC COMMENT: Anyone wishing to comment about items not on the Agenda may do so during the public comment period. Those wishing to comment about items on the Agenda may do so when that item is heard and when the Board calls for public comment. Public comments are limited to five minutes per person.

PUBLIC RECORDS DISTRIBUTED LESS THAN 72 HOURS BEFORE A MEETING: Any writing that is a public record and is distributed to all or a majority of the Board of Directors less than 72 hours before a meeting shall be available for immediate public inspection in the office of the Clerk to the Board at the address shown above. Public records distributed during the meeting shall be made available at the meeting.

AMERICANS WITH DISABILITIES ACT: In accordance with the Americans with Disabilities Act (ADA) and California law, it is the policy of El Dorado Irrigation District to offer its public programs, services, and meetings in a manner that is readily accessible to everyone, including individuals with disabilities. If you are a person with a disability and require information or materials in an appropriate alternative format; or if you require any other accommodation for this meeting, please contact the EID ADA coordinator at 530-642-4045 or email at adacoordinator@eid.org at least 72 hours prior to the meeting. Advance notification within this guideline will enable the District to make reasonable accommodations to ensure accessibility.

Please take notice, as a result of the COVID-19 pandemic, California Governor Gavin Newsom issued Executive Order (EO) N-29-20, which waives certain requirements of the Ralph M. Brown Act (Brown Act) in order to prevent gatherings and slow the spread of COVID-19. Specifically, EO N-29-20 waives the requirements that local public agencies (1) notice each teleconference location from which a board member will participate, (2) make each teleconference location accessible to the public, (3) allow the public to address the agency from each teleconference location, (4) post the agenda at each teleconference location, and (5) ensure that a quorum of the board participate in locations within the boundary of the agency. EO N-29-20 requires local public agencies that conduct public meetings telephonically to allow members of the public to observe and address the meeting telephonically or otherwise electronically.

Because indoor public gatherings remain restricted under the Governor's Executive Orders, regular Board Meetings will continue to be closed to in-person attendance by the public and conducted virtually for the time being. In accordance with EO N-29-20, the public may participate in the District's Board meeting by teleconference or web conference via the instructions provided below. Members of the public who participate in the meeting via teleconference or web conference will be given the opportunity to speak and address the Board, and their comments will be included in the audio recording of the meeting. The meeting materials will be available for download from the District's website at www.eid.org.

PUBLIC PARTICIPATION INSTRUCTIONS

Instructions to join the Board Meeting by telephone only

No accompanying computer or mobile device required. This option will allow participants to listen to Board meeting audio and address the Board during public comment periods by pressing *9 on the telephone keypad.

Dial **1.669.900.6833** and enter Meeting ID **945 6360 8941** when prompted.

Instructions to join the Board Meeting from your computer or mobile device

Click the following join link or copy and paste into your browser <https://zoom.us/j/94563608941>.

If the device being used *is* equipped with a microphone and speaker, participants may view the presentation live and listen to Board meeting audio. You may address the Board during public comment periods by clicking on the "raise a hand" button.

If the device being used *is not* equipped with a microphone, participants may view the presentation live and listen to Board meeting audio using the link above. Participants may address the Board during public comment periods by using the call in instructions above and pressing *9 on the telephone keypad.

Additionally, please note that before joining a Zoom meeting on a computer or mobile device, you can download the Zoom app from <https://zoom.us/download>. Otherwise, you will be prompted to download and install Zoom when you click a join link. You can also visit <https://zoom.us/test> at any time to familiarize yourself with Zoom.

CALL TO ORDER

Roll Call

ADOPT AGENDA

PUBLIC COMMENT

ACTION ITEMS

1. Operations / Office of the General Counsel (Corcoran/Poulsen)

Consider adopting a resolution authorizing the conversion of the District's existing Long-Term Central Valley Project Water Service Contract, No. 14-06-200-1357A-LTR1-P, pursuant to the Water Infrastructure Improvements for the Nation Act.

Option 1: Adopt a resolution authorizing the conversion of the District's existing Long-Term Central Valley Project Water Service Contract, No. 14-06-200-1357A-LTR1-P, pursuant to the Water Infrastructure Improvements for the Nation Act.

Option 2: Take other action as directed by the Board.

Option 3: Take no action.

Recommended Action: Option 1.

ADJOURNMENT

EL DORADO IRRIGATION DISTRICT

SUBJECT: Consider adopting a resolution authorizing the conversion of the District’s existing Long-Term Central Valley Project Water Service Contract, No. 14-06-200-1357A-LTR1-P, pursuant to the Water Infrastructure Improvements for the Nation Act.

PREVIOUS BOARD ACTION

August 10, 2020 – Board adopted Resolution No. 2020-013, appointing District negotiators for potential conversion of the District’s existing Long-Term Water Service Contract pursuant to the Water Infrastructure Improvements for the Nation Act.

BOARD POLICIES (BP), ADMINISTRATIVE REGULATIONS (AR) AND BOARD AUTHORITY

BP 0010 District Mission Statement
BP 5010 Water Supply Management

SUMMARY OF ISSUE

The Water Infrastructure Improvements for the Nation Act of 2016 (WIIN Act) provides a means for existing holders of Long-Term Water Service Contracts with the United States Bureau of Reclamation (Reclamation) to convert the contract with terms potentially more favorable to the District’s long-term strategic interests. Staff requests that the Board adopt the attached resolution authorizing conversion of the District’s contract.

BACKGROUND/DISCUSSION

The District holds a Long-Term Water Supply Contract (WS Contract) with Reclamation for the diversion of up to 7,550 acre-feet annually of Central Valley Project (CVP) water from Folsom Reservoir. The WS Contract was last renewed in 2006 for a period of 40 years. Although contract renewal will not occur for several decades, existing regulatory compliance, droughts, and litigation suggest that future conditions are likely to be more difficult and securing the most favorable possible contract terms now is in the District’s long-term strategic interests.

The WIIN Act presents an opportunity for the District to effectively convert the WS Contract to an indefinite term until/unless the District elects to terminate the contract. Under the terms of the WIIN Act, the conversion of the contract requires prepayment of remaining construction capital cost outlay obligations (pro rata share of federal facility construction costs) for Irrigation and Municipal and Industrial (M&I) contractors such as the District. Without contract conversion, the District would continue to pay these obligations monthly as part of the District’s existing payment obligations. Based upon the initial estimates last summer using then-current rate formulas, Reclamation had anticipated that the District had fulfilled its capital obligations through payments made over the past several decades of exercising its WS Contract. Since that time, Reclamation has finalized its cost allocation update study and, due to changes in methodology affecting cost allocations between M&I and Irrigation contractors, determined that the District will have a remaining obligation of approximately \$207,000. Payment of this remaining obligation is included in the proposed actions specified in the attached resolution (Attachment A).

In August 2020, the Board authorized staff to negotiate a proposed conversion contract for the Board's consideration. Over the latter half of 2020, staff participated in multiple publically-noticed and open negotiation sessions with its federal counterparts (personnel from Reclamation and the United States Department of Interior Solicitor's Office) and successfully negotiated contract terms that protect the District's interests (Attachment B). No members of the public elected to participate in public negotiation sessions. Following completion of negotiations, the contract was also noticed and circulated for a 60-day public review period. No comments were received regarding the contract. If the Board finds these terms of the negotiated contract acceptable, staff recommends the Board adopt the resolution directing certain actions that will allow conversion of the contract.

The District is not alone in its efforts for contract conversion. Most other WS Contract holders, including all eligible water purveyors within the American River Diversion who maintain WS Contracts to divert CVP water from Folsom Reservoir, are also pursuing this effort given its benefits to water purveyors' interests. Of note, since the WS Contract recently executed by El Dorado County Water Agency (i.e., Fazio Contract) was authorized under Public Law 101-514, it was not eligible for conversion under the WIIN Act.

The District was contacted by Reclamation on January 7, 2021, regarding its formal offer of contract conversion, which was subsequent to publication of the January 11, 2021 regular Board meeting agenda. Therefore, staff was unable to include consideration of contract conversion in the regular meeting agenda. However, given the time-sensitive nature of this offer with changing administrations and potential for delays with new Reclamation staffing, staff consulted the Board President to schedule a Special Board meeting for this agenda item concurrent with the January 11, 2021 regular Board meeting to ensure, should the Board authorize conversion, Reclamation and District staff can complete all required contract conversion steps in a timely fashion.

FUNDING

The remaining capital obligations of approximately \$207,000 will be paid from the Operations Department Drinking Water Division annual operating budget. Absent the contract conversion, these costs would continue to be paid down monthly from this same cost center during monthly invoicing with Reclamation. Therefore, there would be no change to the current location where these costs are funded.

Environmental Review

The District, acting as the Lead Agency, must comply with California Environmental Quality Act (CEQA) requirements for projects that may significantly affect the environment. Staff has determined that this project is statutorily exempt from CEQA as an "ongoing project" (CEQA Guidelines §15261). The contract is a continuation of two existing contracts that were first executed in 1958 and 1965 and subsequently merged into the current contract that has since been renewed on multiple occasions over the past six decades. Additionally, staff has determined that the project is categorically exempt as a Class 1 CEQA Categorical Exemption associated with the operation of existing facilities involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination (CEQA Guidelines §15301). The conversion provides no changes to the continued operations of existing diversion facilities or uses of water diverted. The project does not trigger any exceptions to the categorical exemption (see CEQA Guidelines §15300.2). Staff has prepared a Notice of Exemption (NOE) from CEQA and will file the exemption with the El Dorado County Recorder-Clerk's office upon Board approval of the project, and post the NOE for public review on the District's website.

BOARD OPTIONS

Option 1: Adopt a resolution authorizing the conversion of the District's existing Long-Term Central Valley Project Water Service Contract, No. 14-06-200-1357A-LTR1-P, pursuant to the Water Infrastructure Improvements for the Nation Act.

Option 2: Take other action as directed by the Board.

Option 3: Take no action.

RECOMMENDATION

Option 1

ATTACHMENTS

Attachment A: Proposed Resolution

Attachment B: Proposed Contract



Dan Corcoran
Operations Director



Brian Deason
Environmental Resources Supervisor



Brian Mueller
Engineering Director



Mark Price
Finance Director



Brian Poulsen
General Counsel



Jim Abercrombie
General Manager

**RESOLUTION OF THE BOARD OF DIRECTORS OF
EL DORADO IRRIGATION DISTRICT AUTHORIZING THE CONVERSION OF THE
DISTRICT'S EXISTING LONG-TERM WATER SERVICE CONTRACT PURSUANT TO
THE WATER INFRASTRUCTURE IMPROVEMENTS FOR THE NATION ACT**

WHEREAS, pursuant to Section 4011 of the Water Infrastructure Improvements for the Nation Act of 2016, those parties holding existing contracts with the United States Bureau of Reclamation (Reclamation) may convert the contract to a repayment contract; and

WHEREAS, the District has evaluated potential conversion of the District's existing Long-Term Water Service Contract executed February 26, 2006 (14-06-200-1357A-LTR1); and

WHEREAS, the District has publically negotiated a conversion contract with certain terms that best represent the District's long-term water supply portfolio interests; and

WHEREAS, on January 8, 2021 Reclamation offered to execute the negotiated conversion contract.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Directors of the EL DORADO IRRIGATION DISTRICT (District) that this Board:

1. Finds that the negotiated contract contains acceptable terms; and
2. Finds that the contract conversion is both statutorily and categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15261 and 15301, respectively of the CEQA Guidelines and that no exceptions to the categorical exemption applies under section 15300.2 ; and
3. Approves payment of remaining capital obligations according to the contract terms; and
4. Authorizes the General Manager to execute the contract and implement all associated actions to ensure that the contract takes full force and effect.

///

///

///

///

///

///

1 The foregoing Resolution was introduced at a regular meeting of the Board of Directors of the
2 EL DORADO IRRIGATION DISTRICT, held on the 11th day of January 2021, by Director who
3 moved its adoption. The motion was seconded by Director and a poll vote taken which stood as
4 follows:

- 5 AYES:
- 6 NOES:
- 7 ABSENT:
- 8 ABSTAIN:

9 The motion having a majority of votes “Aye”, the resolution was declared to have been
10 adopted, and it was so ordered.

11 Pat Dwyer
12 Board of Directors
13 EL DORADO IRRIGATION DISTRICT

14 ATTEST:

15 Jennifer Sullivan
16 Clerk to the Board
17 EL DORADO IRRIGATION DISTRICT

18 (SEAL)

19

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

I, the undersigned, Clerk to the Board of the EL DORADO IRRIGATION DISTRICT hereby certify that the foregoing resolution is a full, true and correct copy of a Resolution of the Board of Directors of the EL DORADO IRRIGATION DISTRICT entered into and adopted at a regular meeting of the Board of Directors held on the 11th day of January 2021.

Jennifer Sullivan
Clerk to the Board
EL DORADO IRRIGATION DISTRICT

1
2
3
4
5
6
7
8 ///
9 ///
10 ///
11 ///
12 ///
13 ///
14 ///
15 ///
16 ///
17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///



United States Department of the Interior

BUREAU OF RECLAMATION
 Interior Region 10
 Central California Area Office
 7794 Folsom Dam Road
 Folsom, California 95630-1799



IN REPLY REFER TO:

CC-404
 2.2.4.21

Mr. Jim Abercrombie
 General Manager
 El Dorado Irrigation District
 2890 Mosquito Rd
 Placerville, California 95667

Subject: Contract Number 14-06-200-1357A-LTR1-P (Contract) Between the United States and El Dorado Irrigation District (District) Providing for Project Water Service – Central Valley Project (Project), California

Dear Mr. Abercrombie:

Please find enclosed three originals of the Contract for Project water service and facilities repayment to the District. If this Contract is acceptable, please have the authorized officials from the District sign each of the originals and return all three copies to the Bureau of Reclamation, 2800 Cottage Way, Sacramento CA 95825, Attention: CGB-440 (Stanley Data), for execution. In addition, an original board resolution approving this Contract as to form and authorizing the designated District official to sign the contract on behalf of the District is to be submitted with the signed originals of the Contract. Reclamation will provide a signed original Contract to the District after execution.

If you have any questions, please contact Georgiana Gregory, Repayment Specialist, at (916) 537-7051.

Sincerely,

DREW
 LESSARD

Digitally signed by DREW
 LESSARD
 Date: 2021.01.08
 11:34:55 -08'00'

Drew Lessard
 Area Manager

Enclosure – 3 copies

CCAO 08-11-2020
CCAO 08-24-2020
CCAO 08-27-2020
CCAO 01-07-2021

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

CONTRACT BETWEEN THE UNITED STATES
AND
EL DORADO IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
AND FACILITITES REPAYMENT

Table of Contents

| <u>Article No.</u> | <u>Title</u> | <u>Page No.</u> |
|--------------------|---|-----------------|
| | Preamble | 1 |
| | Explanatory Recitals | 1 |
| 1 | Definitions..... | 6 |
| 2 | Term of Contract..... | 10 |
| 3 | Water to be Made Available and Delivered to the Contractor..... | 12 |
| 4 | Time for Delivery of Water | 15 |
| 5 | Point of Diversion and Responsibility for Distribution of Water | 16 |
| 6 | Measurement of Water Within the Service Area..... | 18 |
| 7 | Rates, Method of Payment for Water and Accelerated Repayment of Facilities .. | 19 |
| 8 | Non-Interest Bearing Operation and Maintenance Deficits..... | 28 |
| 9 | Sales, Transfers, or Exchanges of Water | 29 |
| 10 | Application of Payments and Adjustments..... | 29 |
| 11 | Temporary Reductions--Return Flows | 30 |
| 12 | Constraints on the Availability of Water | 31 |
| 13 | Unavoidable Groundwater Percolation..... | 32 |
| 14 | Rules, Regulations and Determinations..... | 32 |
| 15 | Protection of Water and Air Quality..... | 32 |
| 16 | Water Acquired by the Contractor Other Than From the United States..... | 32 |

Table of Contents - continued

| <u>Article No.</u> | <u>Title</u> | <u>Page No.</u> |
|--------------------|---|-----------------|
| 17 | Opinions and Determinations | 34 |
| 18 | Coordination and Cooperation | 34 |
| 19 | Charges for Delinquent Payments | 36 |
| 20 | Equal Employment Opportunity | 37 |
| 21 | General Obligation--Benefits Conditioned Upon Payment | 38 |
| 22 | Compliance With Civil Rights Laws and Regulations | 38 |
| 23 | Privacy Act Compliance | 39 |
| 24 | Contractor to Pay Certain Miscellaneous Costs..... | 39 |
| 25 | Water Conservation | 40 |
| 26 | Existing or Acquired Water or Water Rights..... | 41 |
| 27 | Operation and Maintenance by the Operating Non-Federal Entity | 42 |
| 28 | Contingent on Appropriation or Allotment of Funds | 42 |
| 29 | Books, Records, and Reports | 42 |
| 30 | Assignment Limited--Successors and Assigns Obligated | 42 |
| 31 | Severability | 43 |
| 32 | Resolution of Disputes..... | 43 |
| 33 | Officials Not to Benefit..... | 44 |
| 34 | Changes in Contractor's Service Area | 44 |
| 35 | Federal Laws | 45 |
| 36 | Notices | 45 |
| 37 | Confirmation of Contract..... | 45 |
| 38 | Certification of Nonsegregated Facilities | 45 |
| 39 | Medium for Transmitting Payment..... | 45 |
| 40 | Contract Drafting Considerations | 46 |
| | Signature Page | 47 |
| | Exhibit A – Map of Contractor’s Service Area | |
| | Exhibit B – Rates and Charges | |
| | Exhibit C - Existing Capital Obligation | |

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

CONTRACT BETWEEN THE UNITED STATES
AND
EL DORADO IRRIGATION DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
AND FACILITIES REPAYMENT

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

14 WITNESSETH, That:

15 EXPLANATORY RECITALS

16 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
17 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for
18 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection

19 and restoration, generation and distribution of electric energy, salinity control, navigation and
20 other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River,
21 and the San Joaquin River and their tributaries; and

22 [2nd] WHEREAS, the United States constructed Folsom Dam and Reservoir,
23 hereinafter collectively referred to as the American River Division, which will be used in part for
24 the furnishing of water to the Contractor pursuant to the terms of this Contract; and

25 [3rd] WHEREAS, the rights to Project Water were acquired by the United States
26 pursuant to California law for operation of the Project; and

27 [4th] WHEREAS, the Contractor and the United States entered into Contract
28 No. 14-06-200-1357A, as amended, which established terms for the delivery to the
29 Contractor of Project Water from the American River Division from January 1, 1965,
30 through December 31, 2004, to the El Dorado Hills area (hereinafter referred to as the El
31 Dorado Hills contract); and

32 [4.1] WHEREAS, the County of El Dorado and the United States entered into Contract
33 No. 14-06-200-7312A, dated July 25, 1958, which established terms for the delivery to the
34 Contractor of Project Water from the American River Division through October 31, 1999, to the
35 Lake Hills Estate area (hereinafter referred to as the Lake Hills Estates contract); and

36 [4.2] WHEREAS, the County of El Dorado officially assigned the Lake Hills Estates
37 contract to the Contractor on December 18, 1973, with the approval of the United States; and

38 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection
39 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into
40 interim renewal contracts identified as Contract Nos. 14-06-200-7312A-IR1, 14-06-200-7312A-
41 IR2, 14-06-200-7312A-IR3, 14-06-200-7312A-IR4, 14-06-200-7312A-IR5, 14-06-200-7312A-

42 IR6, and 14-06-200-7312A-IR7, which provided for the continued water service to the
43 Contractor from March 1, 2004, through February 29, 2006; and

44 [5.1] WHEREAS, Article 3(h) of Contract No. 14-06-200-7312A-IR2 states that the El
45 Dorado Hills and Lake Hills Estates contracts will be fully integrated into one long-term renewal
46 contract; and

47 [6th] WHEREAS, on February 28, 2006, the United States and the Contractor entered
48 into Contract No. 14-06-200-1357A-LTR1, hereinafter referred to as the Existing Contract,
49 which established terms for the delivery of Project Water to the Contractor from the American
50 River Division, and was in effect on the date the WIIN Act was enacted; and

51 [7th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
52 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
53 reasonable and beneficial use and/or has demonstrated projected future demand for water use such
54 that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use
55 the quantity of Project Water to be made available to it pursuant to this Contract; and

56 [8th] WHEREAS, water obtained from the Project has been relied upon by urban areas
57 within California for more than 50 years, and is considered by the Contractor as an essential
58 portion of its water supply; and

59 [9th] WHEREAS, the economies of regions within the Project, including the
60 Contractor's, depend upon the continued availability of water, including water service from the
61 Project; and

62 [10th] WHEREAS, the Secretary of the Interior (Secretary) intends through
63 coordination, cooperation, and partnerships to pursue measures to improve water supply, water
64 quality, and reliability of the Project for all Project purposes; and

65 [10.1] WHEREAS, the Contractor and the water users in its Service Area have improved
66 and will continue to improve water use efficiency through water conservation, water reclamation,
67 and other Best Management Practices; however, implementing these measures has reduced and
68 will continue to reduce the ability of the Contractor and the water users in its Service Area to
69 withstand a Condition of Shortage; and

70 [11th] WHEREAS, the mutual goals of the United States and the Contractor include: to
71 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
72 repayment of the Project as required by law; to guard reasonably against Project Water
73 shortages; to achieve a reasonable balance among competing demands for use of Project Water;
74 and to comply with all applicable environmental statutes, all consistent with the legal obligations
75 of the United States relative to the Project; and

76 [12th] WHEREAS, the parties intend by this Contract to develop a more cooperative
77 relationship in order to achieve their mutual goals; and

78 [13th] WHEREAS, on December 16, 2016, the 114th Congress of the United States of
79 America enacted the WIIN Act; and

80 [14th] WHEREAS, WIIN Act, Section 4011(a)(1) provides that “upon request of the
81 contractor, the Secretary of the Interior shall convert any water service contract in effect on the
82 date of enactment of this subtitle and between the United States and a water users’ association
83 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under
84 mutually agreeable terms and conditions.”; and

85 [15th] WHEREAS, WIIN Act, Section 4011(a)(1) further provides that “the manner of
86 conversion under this paragraph shall be as follows: (A) Water service contracts that were
87 entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under

88 this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat.
89 1195)”; and “(B) Water service contracts that were entered under subsection (c)(2) of section 9
90 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be
91 converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

92 [16th] WHEREAS, WIIN Act, Section 4011(a)(4)(C) further provides all contracts
93 entered into pursuant to WIIN Act, Section 4011(a)(1), (2), and (3) shall “not modify other water
94 service, repayment, exchange and transfer contractual rights between the water users’ association
95 [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the
96 water users’ association [Contractor] and their landowners as provided under State law.”; and

97 [17th] WHEREAS, WIIN Act, Section 4011(d)(3) and (4) provides that “implementation
98 of the provisions of this subtitle shall not alter... (3) the priority of a water service or repayment
99 contractor to receive water; or (4) except as expressly provided in this section, any obligations
100 under the reclamation law, including the continuation of Restoration Fund charges pursuant to
101 section 3407(d) (Public Law 102-575), of the water service and repayment contractors making
102 prepayments pursuant to this section.”; and

103 [18th] WHEREAS, upon the request of the Contractor, the WIIN Act directs the
104 Secretary to convert municipal and industrial (M&I) water service contracts into repayment
105 contracts, amend existing repayment contracts, and allow contractors to prepay their construction
106 cost obligations pursuant to applicable Federal Reclamation law; and

107 [19th] WHEREAS, the Contractor requested that its Existing Contract be converted
108 under the WIIN Act, and the United States and the Contractor have agreed to convert the
109 Existing Contract into this repayment contract, consistent with the Federal Reclamation law; and

110 [20th] WHEREAS, consistent with the WIIN Act, in entering into this Contract, the
111 parties do not intend to change or delete any terms or provisions of the Existing Contract except
112 as expressly set forth in this Contract; and

113 [21th] WHEREAS, the United States and the Contractor agree that this Contract
114 complies with WIIN Act, Section 4011; and

115 [22nd] WHEREAS, the Contracting Officer acknowledges that, in addition to this
116 Contract, the Contractor exercises its own water rights through two Long-Term Warren Act
117 Contracts at Folsom Reservoir and that nothing contained in this Contract shall be construed to
118 impair Contractor's ability to continue exercising either Long-Term Warren Act Contract.

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

121 DEFINITIONS

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

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

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

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

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

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

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

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

143 (h-i) Omitted;

144 (j) "Full Cost Rate" shall mean an annual rate as determined by the
145 Contracting Officer that shall amortize the expenditures for construction properly allocable to the
146 Project irrigation or municipal and industrial (M&I) functions, as appropriate, of facilities in
147 service including all operation and maintenance (O&M) deficits funded, less payments, over
148 such periods as may be required under Federal Reclamation law or applicable contract
149 provisions. Interest will accrue on both the construction expenditures and funded O&M deficits
150 from October 12, 1982, on costs outstanding at that date, or from the date incurred in the case of
151 costs arising subsequent to October 12, 1982, and shall be calculated in accordance with
152 subsections 202(3)(B) and (3)(C) of the Reclamation Reform Act of 1982 (RRA). The Full-Cost
153 Rate includes actual operation, maintenance, and replacement costs consistent with Section 426.2
154 of the Rules and Regulations for the RRA;

155 (k-l) Omitted;

156 (m) "Irrigation Water" shall mean the use of Project Water to irrigate land
157 primarily for the production of commercial agricultural crops or livestock, and domestic and
158 other uses that are incidental thereto;

159 (n) Omitted;

160 (o) "Municipal and Industrial Water" ("M&I Water") shall mean the use of
161 Project Water for municipal, industrial, and miscellaneous other purposes not falling under the
162 definition of Irrigation Water or within another category of water use under an applicable Federal
163 authority.

164 Water uses established before March 1, 2021 and known to the Contracting Officer and the
165 Contractor are deemed to be authorized uses of M&I Water;

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

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

171 (r) Omitted;

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

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

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

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

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

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

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

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

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

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

201 (cc) "Year" shall mean the period from and including March 1 of each
202 Calendar Year through the last day of February of the following Calendar Year;

203 (dd) "Additional Capital Obligation" shall mean construction costs or other
204 capitalized costs incurred after March 1, 2021 or not reflected in the Existing Capital Obligation
205 as defined herein and in accordance with WIIN Act, Section 4011, subsection (a)(3)(B);

206 (ee) "Existing Capital Obligation" shall mean the remaining amount of
207 construction costs or other capitalized costs allocable to the Contractor as described in Section
208 4011, subsection (a)(3)(A) of the WIIN Act, and as identified in the Central Valley Project
209 Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, in the Final
210 2021 Ratebooks, as adjusted to reflect payments not reflected in such schedule. The Contracting
211 Officer has computed the Existing Capital Obligation and such amount is set forth in Exhibit C,
212 which is incorporated herein by reference; and

213 (ff) "Repayment Obligation" shall mean the amount due and payable to the
214 United States, pursuant to Section 4011(a)(3)(A) of the WIIN Act.

215 TERM OF CONTRACT

216 2. (a) This Contract shall be effective March 1, 2021 ("Effective Date") and
217 shall continue so long as the Contractor pays applicable Rates and Charges under this Contract,
218 consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable,
219 and applicable law;

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

226 (2) *Provided further*, That the Contracting Officer shall not seek to
227 suspend making water available or declaring Water Made Available pursuant to this Contract for
228 non-compliance by the Contractor with the terms of this Contract or Federal law, unless the
229 Contracting Officer has first provided at least thirty (30) calendar days written notice to the
230 Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence
231 curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully
232 cured within the thirty (30) calendar days' notice period. If the Contracting Officer has
233 suspended making water available pursuant to this paragraph, upon cure of such noncompliance
234 satisfactory to the Contracting Officer, the Contracting Officer shall resume making water
235 available and declaring Water Made Available pursuant to this Contract;

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

238 (b) Upon complete payment of the Repayment Obligation by the Contractor,
239 and notwithstanding any Additional Capital Obligation that may later be established, the acreage
240 limitations, reporting, and the Full Cost pricing provisions of the Reclamation Reform Act of
241 1982 shall no longer be applicable to the Contractor pursuant to this Contract.

242 (c) Omitted.

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

246 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

247 3. (a) During each Year, consistent with all applicable State water rights,
248 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of
249 this Contract, the Contracting Officer shall make available for delivery to the Contractor up
250 to 7,550 acre-feet of Project Water for M&I purposes. Water Delivered to the Contractor in
251 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of
252 Articles 4 and 7 of this Contract.

253 (b) Because the capacity of the Project to deliver Project Water has been
254 constrained in recent years and may be constrained in the future due to many factors including
255 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
256 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this
257 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the
258 programmatic environmental impact statement required by Section 3409 of the CVPIA,
259 projected that the Contract Total set forth in this Contract will not be available to the Contractor
260 in many years. At the time of the Existing Contract, the Recent Historic Average of Water Made
261 Available to the Contractor was 6,716 acre feet. Nothing in subdivision (b) of this Article shall
262 affect the rights and obligations of the parties under any provision of this Contract.

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

265 (d) The Contractor shall make reasonable and beneficial use of all water
266 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu),
267 ground-water banking programs, surface water storage programs, and other similar programs
268 utilizing Project Water or other water furnished pursuant to this Contract conducted within the

269 Contractor's Service Area which are consistent with applicable State law and result in use
270 consistent with Federal Reclamation law will be allowed; Provided, That any direct recharge
271 program(s) is (are) described in the Contractor's water conservation plan submitted pursuant to
272 Article 25 of this Contract; Provided, further, That such water conservation plan demonstrates
273 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average,
274 the quantity of Delivered Water is demonstrated to be reasonable for such uses and in
275 compliance with Federal Reclamation law. Ground-water recharge programs, groundwater
276 banking programs, surface water storage programs, and other similar programs utilizing Project
277 Water or other water furnished pursuant to this Contract conducted outside the Contractor's
278 Service Area may be permitted upon written approval of the Contracting Officer, which approval
279 will be based upon environmental documentation, Project Water rights, and Project operational
280 concerns. The Contracting Officer will address such concerns in regulations, policies, or
281 guidelines.

282 (e) The Contractor shall comply with requirements applicable to the
283 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
284 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),
285 as amended, that are within the Contractor's legal authority to implement. The Existing
286 Contract, which evidences in excess of 50 years of diversions for M&I purposes of the quantities
287 of water provided in subdivision (a) of Article 3 of this Contract, will be considered in
288 developing an appropriate baseline for the biological assessment prepared pursuant to the ESA,
289 and any other needed environmental review. Nothing herein shall be construed to prevent the
290 Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with
291 respect to any biological opinion or other environmental documentation referred to in this Article.

292 (f) Following the declaration of Water Made Available under Article 4 of this
293 Contract, the Contracting Officer will make a determination whether Project Water, or other
294 water available to the Project, can be made available to the Contractor in addition to the Contract
295 Total under Article 3 of this Contract during the Year without adversely impacting other Project
296 Contractors. At the request of the Contractor, the Contracting Officer will consult with the
297 Contractor prior to making such a determination. If the Contracting Officer determines that
298 Project Water, or other water available to the Project, can be made available to the Contractor,
299 the Contracting Officer will announce the availability of such water and shall so notify the
300 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor
301 and other Project Contractors capable of taking such water to determine the most equitable and
302 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such
303 water, the Contracting Officer shall make such water available to the Contractor in accordance
304 with applicable statutes, regulations, guidelines, and policies.

305 (g) The Contractor may request permission to reschedule for use during the
306 subsequent Year some or all of the Water Made Available to the Contractor during the current
307 Year, referred to as “carryover”. The Contractor may request permission to use during the
308 current Year a quantity of Project Water which may be made available by the United States to
309 the Contractor during the subsequent Year, referred to as “preuse”. The Contracting Officer’s
310 written approval may permit such uses in accordance with applicable statutes, regulations,
311 guidelines, and policies.

312 (h) The Contractor’s right pursuant to Federal Reclamation law and applicable
313 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract shall
314 not be disturbed, and this Contract shall continue so long as the Contractor pays applicable Rates

315 and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the Act of August 4,
316 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding sentence shall
317 affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of
318 Article 12 of this Contract.

319 (i) Project Water furnished to the Contractor pursuant to this Contract may be
320 delivered for purposes other than those described in subdivision (o) of Article 1 of this Contract
321 upon written approval by the Contracting Officer in accordance with the terms and conditions of
322 such approval.

323 (j) The Contracting Officer shall make reasonable efforts to protect the water
324 rights necessary for the Project and to provide the water available under this Contract. The
325 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
326 extent permitted by law, in administrative proceedings related to the Project Water rights;
327 *Provided*, That the Contracting Officer retains the right to object to the substance of the
328 Contractor's position in such a proceeding; *Provided further*, That in such proceedings the
329 Contracting Officer shall recognize the Contractor has a legal right under the terms of this
330 Contract to use Project Water.

331 TIME FOR DELIVERY OF WATER

332 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer
333 shall announce the Contracting Officer's expected declaration of the Water Made Available.
334 Such declaration will be expressed in terms of both Water Made Available and the Recent
335 Historic Average and will be updated monthly, and more frequently if necessary, based on
336 then-current operational and hydrologic conditions and a new declaration with changes, if any, to
337 the Water Made Available will be made. The Contracting Officer shall provide forecasts of

338 Project operations and the basis of the estimate, with relevant supporting information, upon the
339 written request of the Contractor. Concurrently with the declaration of the Water Made
340 Available, the Contracting Officer shall provide the Contractor with the updated Recent Historic
341 Average.

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

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

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

357 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

358 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
359 Contract shall be delivered to the Contractor at the Contractor's point of diversion in Folsom

360 Lake and any additional point or points of delivery either on Project facilities or another location
361 or locations mutually agreed to in writing by the Contracting Officer and the Contractor.

362 (b) Omitted.

363 (c) The Contractor shall not deliver Project Water to land outside the
364 Contractor's Service Area unless approved in advance by the Contracting Officer.

365 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
366 measured and recorded with equipment furnished, installed, operated, and maintained by the
367 United States, or other appropriate entity as designated by the Contracting Officer at the
368 point or points of delivery established pursuant to subdivision (a) of this Article. Upon the
369 request of either party to this Contract, the Contracting Officer shall investigate, or cause to be
370 investigated, the accuracy of such measurements and shall take any necessary steps to adjust any
371 errors appearing therein. For any period of time when accurate measurements have not been
372 made, the Contracting Officer shall consult with the Contractor prior to making a final
373 determination of the quantity delivered for that period of time.

374 (e) The Contracting Officer shall not be responsible for the control, carriage,
375 handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
376 Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor
377 shall indemnify the United States, its officers, employees, agents, and assigns on account of
378 damage or claim of damage of any nature whatsoever for which there is legal responsibility,
379 including property damage, personal injury, or death arising out of or connected with the control,
380 carriage, handling, use, disposal, or distribution of such Water Delivered beyond such delivery
381 points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting
382 Officer or any of its officers, employees, agents, or assigns with the intent of creating the

383 situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or
384 any of its officers, employees, agents, or assigns; (iii) negligence of the Contracting Officer or
385 any of its officers, employees, agents, or assigns; or (iv) damage or claims resulting from a
386 malfunction of facilities owned and/or operated by the United States.

387 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

388 6. (a) The Contractor has established a measuring program satisfactory to the
389 Contracting Officer. The Contractor shall ensure that all surface water delivered for M&I
390 purposes is measured at each M&I service connection. The water measuring devices or water
391 measuring methods of comparable effectiveness must be acceptable to the Contracting Officer.
392 The Contractor shall be responsible for installing, operating, and maintaining and repairing all
393 such measuring devices and implementing all such water measuring methods at no cost to the
394 United States. The Contractor shall use the information obtained from such water measuring
395 devices or water measuring methods to ensure its proper management of the water, to bill water
396 users for water delivered by the Contractor; and, if applicable, to record water delivered for M&I
397 purposes by customer class as defined in the Contractor's water conservation plan provided for
398 in Article 25 of this Contract. Nothing herein contained, however, shall preclude the Contractor
399 from establishing and collecting any charges, assessments, or other revenues authorized by
400 California law. The Contractor shall include a summary of all its annual surface water deliveries
401 in the annual report described in subdivision (c) of Article 25.

402 (b) To the extent the information has not otherwise been provided, upon
403 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
404 report describing the measurement devices or water measuring methods being used or to be used
405 to implement subdivision (a) of this Article and identifying the M&I service connections or

406 alternative measurement programs approved by the Contracting Officer, at which such
407 measurement devices or water measuring methods are being used, and, if applicable, identifying
408 the locations at which such devices and/or methods are not yet being used including a time
409 schedule for implementation at such locations. The Contracting Officer shall advise the
410 Contractor in writing within 60 days as to the adequacy and necessary modifications, if any, of
411 the measuring devices or water measuring methods identified in the Contractor's report and if the
412 Contracting Officer does not respond in such time, they shall be deemed adequate. If the
413 Contracting Officer notifies the Contractor that the measuring devices or methods are
414 inadequate, the parties shall within 60 days following the Contracting Officer's response,
415 commence to negotiate in good faith how, and the earliest practicable date by which, the
416 Contractor shall modify said measuring devices and/or measuring methods as required by the
417 Contracting Officer to ensure compliance with subdivision (a) of this Article.

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

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

424 (e) The Contractor shall inform the Contracting Officer on or before the 20th
425 calendar day of each month of the quantity of M&I Water taken during the preceding month.

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

428 7. (a) Notwithstanding the Contractor's full prepayment of the Repayment
429 Obligation pursuant to Section 4011, subsection (a)(3)(A) of the WIIN Act, as set forth in

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

442 (1) The Contractor shall pay the United States as provided for in this
443 Article of this Contract for all Delivered Water at Rates, Charges, and Tiered Pricing Component
444 in accordance with policies for M&I Water. The Contractor's Rates shall be established to
445 recover its estimated reimbursable costs included in the operation & maintenance component of
446 the Rate and amounts established to recover deficits and other charges, if any, including
447 construction costs as identified in the following subdivisions.

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

450 (A) The amount due and payable to the United States, pursuant
451 to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been
452 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth

453 as a lump sum payment as set forth in Exhibit C. The Repayment Obligation is due in lump sum
454 within 60 days of the Effective Date of this Contract as provided by the WIIN Act.

455 Notwithstanding any Additional Capital Obligation that may later be established, receipt of the
456 Contractor's payment of the Repayment Obligation to the United States shall fully and
457 permanently satisfy the Existing Capital Obligation.

458 (B) Additional Capital Obligations that are not reflected in the
459 schedules referenced in Exhibit C and are properly assignable to the Contractor shall be repaid as
460 prescribed by the WIIN Act without interest except as required by law. Consistent with Federal
461 Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital
462 Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the
463 Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of
464 the Additional Capital Obligation assigned to each Project Contractor by the Secretary shall not
465 be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B),
466 however, such increases or decreases will be considered under subdivision (b) of this Article. A
467 separate agreement shall be established by the Contractor and the Contracting Officer to
468 accomplish repayment of the Additional Capital Obligation assigned to the Contractor within the
469 timeframe prescribed by the WIIN Act, subject to the following:

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

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

482 (b) In the event that the final cost allocation referenced in Section 4011(b) of
483 the WIIN Act determines that the costs properly assignable to the Contractor are greater than
484 what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining
485 allocated costs. The term of such additional repayment contract shall be not less than one (1)
486 year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate
487 of repayment of such amount may be developed by the Contractor and Contracting Officer. In
488 the event that the final cost allocation indicates that the costs properly assignable to the
489 Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such
490 overpayment as an offset against any outstanding or future obligations of the Contractor, with the
491 exception of Restoration Fund charges pursuant to Section 3407(d) of Public Law 102-575.

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

494 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
495 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
496 period October 1, of the current Calendar Year, through September 30, of the following Calendar
497 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months
498 to review and comment on such estimates. On or before September 15 of each Calendar Year,

499 the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during
500 the period October 1 of the current Calendar Year, through September 30, of the following
501 Calendar Year, and such notification shall revise Exhibit "B".

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

509 (d) At the time the Contractor submits the initial schedule for the delivery of
510 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
511 Contractor shall make an advance payment to the United States equal to the total amount payable
512 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
513 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
514 Year. Before the end of the first month and before the end of each calendar month thereafter, the
515 Contractor shall make an advance payment to the United States, at the Rate(s) set under
516 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
517 during the second month immediately following. Adjustments between advance payments for
518 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of
519 the following month; *Provided*, That any revised schedule submitted by the Contractor pursuant
520 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
521 Contract during any month shall be accompanied with appropriate advance payment, at the Rates

522 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
523 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
524 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
525 additional Project Water shall be delivered to the Contractor unless and until an advance
526 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
527 between the advance payments for the Water Scheduled and payments for the quantities of Water
528 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
529 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried
530 over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last
531 day of February.

532 (e) The Contractor shall also make a payment in addition to the Rate(s) in
533 subdivision (d) of this Article to the United States for Water Delivered, at the Charges and the
534 appropriate Tiered Pricing Component then in effect, before the end of the month following the
535 month of delivery. The payments shall be consistent with the quantities of M&I Water Delivered
536 as shown in the water delivery report for the subject month prepared by the Operating Non-
537 Federal Entity or, if there is no Operating Non-Federal Entity, by the Contracting Officer. The
538 water delivery report shall be deemed a bill for the payment of Charges and the applicable Tiered
539 Pricing Component for Water Delivered. Adjustment for overpayment or underpayment of
540 Charges shall be made through the adjustment of payments due to the United States for Charges
541 for the next month. Any amount to be paid for past due payment of Charges and the Tiered
542 Pricing Component shall be computed pursuant to Article 19 of this Contract.

543 (f) The Contractor shall pay for any Water Delivered under subdivision (a),
544 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to

545 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting
546 policies; Provided, That the Rate for Water Delivered under subdivision (f) of Article 3 of this
547 Contract shall be no more than the otherwise applicable Rate for M&I Water under subdivision
548 (a) of this Article.

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

551 (h) All revenues received by the United States from the Contractor relating to
552 the delivery of Project Water or the delivery of non-Project water through Project facilities shall
553 be allocated and applied in accordance with Federal Reclamation law and the associated rules or
554 regulations, and the then-current Project ratesetting policy for M&I Water.

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

563 (j) The parties acknowledge and agree that the efficient administration of this
564 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
565 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Component,
566 and/or for making and allocating payments, other than those set forth in this Article may be in
567 the mutual best interest of the parties, it is expressly agreed that the parties may enter into

568 agreements to modify the mechanisms, policies, and procedures for any of those purposes while
569 this Contract is in effect without amending this Contract.

570 (k) (1) Beginning at such time as deliveries of Project Water in a Year
571 exceed 80 percent of the Contract Total, then before the end of the month following the month of
572 delivery the Contractor shall make an additional payment to the United States equal to the
573 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
574 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
575 Contract Total, shall equal one-half of the difference between the Rate established under
576 subdivision (a) of this Article and the M&I Full Cost Water Rate. The Tiered Pricing
577 Component for the amount of Water Delivered which exceeds 90 percent of the Contract Total
578 shall equal the difference between (i) the Rate established under subdivision (a) of this Article
579 and (ii) the M&I Full Cost Water Rate.

580 (2) Omitted.

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

586 (1) Rates under the respective ratesetting policies will be established to
587 recover only reimbursable O&M (including any deficits) and capital costs of the Project, as those
588 terms are used in the then-current Project ratesetting policies, and interest, where appropriate,
589 except in instances where a minimum Rate is applicable in accordance with the relevant Project
590 ratesetting policy. Changes of significance in practices which implement the Contracting

591 Officer's ratesetting policies will not be implemented until the Contracting Officer has provided
592 the Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

593 (m) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
594 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
595 adjusted upward or downward to reflect the changed costs, if any, incurred by the Contracting
596 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in
597 accordance with the then-applicable Project ratesetting policy.

598 (n) Omitted.

599 (o) With respect to the Rates for M&I water, the Contractor asserts that it is
600 not legally obligated to pay any Project deficits claimed by the United States to have accrued as
601 of the date of this Contract or deficit-related interest charges thereon. By entering into this
602 Contract, the Contractor does not waive any legal rights or remedies that it may have with
603 respect to such disputed issues. Notwithstanding the execution of this Contract, and payments
604 made hereunder, the Contractor may challenge in the appropriate administrative or judicial
605 forums: (1) the existence, computation, or imposition of any deficit charges accruing during the
606 term of the Existing Contract and any preceding interim renewal contracts, if applicable; (2)
607 interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in
608 the Rates; (4) the application by the United States of payments made by the Contractor under its
609 Existing Contract and any preceding interim renewal contract, if applicable; and (5) the
610 application of such payments in the Rates. The Contracting Officer agrees that the Contractor
611 shall be entitled to the benefit of any administrative or judicial ruling in favor of any other
612 Project M&I contractor on any of these issues, and credits for payments heretofore made,
613 Provided, That the basis for such ruling is applicable to the Contractor.

614 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

615 8. Omitted.

616 SALES, TRANSFERS, OR EXCHANGES OF WATER

617 9. (a) The right to receive Project Water provided for in this Contract may be
618 sold, transferred, or exchanged to others for reasonable and beneficial uses within the State of
619 California if such sale, transfer, or exchange is authorized by applicable Federal and State laws,
620 and applicable guidelines or regulations then in effect. No sale, transfer, or exchange of Project
621 Water under this Contract may take place without the prior written approval of the Contracting
622 Officer, except as provided for in subdivision (b) of this Article, and no such sales, transfers, or
623 exchanges shall be approved absent all appropriate environmental documentation, including but
624 not limited to, documents prepared pursuant to the National Environmental Policy Act (NEPA)
625 and ESA. Such environmental documentation should include, as appropriate, an analysis of
626 ground-water impacts and economic and social effects, including environmental justice, of the
627 proposed water transfers on both the transferor and transferee.

628 (b) In order to facilitate efficient water management by means of water
629 transfers to the type historically carried out among Project Contractors located within the same
630 geographical area and to allow the Contractor to participate in an accelerated water transfer
631 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,
632 all necessary environmental documentation including, but not limited to, documents prepared
633 pursuant to NEPA and ESA analyzing annual transfers within such geographical areas, and the
634 Contracting Officer shall determine whether such transfers comply with applicable law.
635 Following the completion of the environmental documentation, such transfers addressed in such
636 documentation shall be conducted with advance notice to the Contracting Officer, but shall not

637 require prior written approval by the Contracting Officer. Such environmental documentation
638 and the Contracting Officer's compliance determination shall be reviewed every five years and
639 updated, as necessary, prior to the expiration of the then-existing five-year period. All
640 subsequent environmental documentation shall include an alternative to evaluate not less than the
641 quantity of Project Water historically transferred within the same geographical area.

642 (c) For a water transfer to qualify under subdivision (b) of this Article, such
643 water transfer must: (i) be for irrigation purposes for lands irrigated within the previous three
644 years, for M&I use, ground-water recharge, water banking, or fish and wildlife resources; not
645 lead to land conversion; and be delivered to established cropland, wildlife refuges, ground-water
646 basins or M&I use, (ii) occur within a single Year; (iii) occur between a willing seller and a
647 willing buyer; (iv) convey water through existing Project facilities with no new construction or
648 modifications to facilities and be between existing Project Contractors and/or the Contractor and
649 the United States, Department of the Interior; and (v) comply with all applicable Federal, State,
650 and local or tribal laws and requirements imposed for protection of the environment and Indian
651 Trust Assets, as defined under Federal law.

652 APPLICATION OF PAYMENTS AND ADJUSTMENTS

653 10. (a) The amount of any overpayment by the Contractor of the Contractor's
654 O&M, capital, and deficit (if any) obligations for the Year shall be applied first to any current
655 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
656 more than \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount
657 of such overpayment, at the option of the Contractor, may be credited against amounts to become
658 due to the United States by the Contractor. With respect to overpayment, such refund or
659 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to

660 have the right to the use of any of the Project Water supply provided for herein. All credits and
661 refunds of overpayments shall be made within 30 days of the Contracting Officer obtaining
662 direction as to how to credit or refund such overpayment in response to the notice to the
663 Contractor that it has finalized the accounts for the Year in which the overpayment was made.

664 (b) All advances for miscellaneous costs incurred for work requested by the
665 Contractor pursuant to Article 24 of this Contract shall be adjusted to reflect the actual costs
666 when the work has been completed. If the advances exceed the actual costs incurred, the
667 difference will be refunded to the Contractor. If the actual costs exceed the Contractor's
668 advances, the Contractor will be billed for the additional costs pursuant to Article 24.

669 TEMPORARY REDUCTIONS--RETURN FLOWS

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

675 (b) The Contracting Officer may temporarily discontinue or reduce the
676 quantity of Water Delivered to the Contractor as herein provided for the purposes of
677 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or
678 any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
679 feasible the Contracting Officer will give the Contractor due notice in advance of such temporary
680 discontinuance or reduction, except in case of emergency, in which case no notice need be given;
681 *Provided*, That the United States shall use its best efforts to avoid any discontinuance or
682 reduction in such service. Upon resumption of service after such reduction or discontinuance,

683 and if requested by the Contractor, the United States will, if possible, deliver the quantity of
684 Project Water which would have been delivered hereunder in the absence of such discontinuance
685 or reduction.

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

692 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

698 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting
699 or other similar operational errors affecting the Project; drought and other physical or natural
700 causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer
701 to meet current and future legal obligations then, except as provided in subdivision (a) of Article
702 17 of this Contract, no liability shall accrue against the United States or any of its officers,
703 agents, or employees for any damage, direct or indirect, arising therefrom.

704 (c) Omitted.

705 (d) Project Water furnished under this Contract will be allocated in
706 accordance with the then-existing Project M&I Water Shortage Policy. Such policy shall be
707 amended, modified, or superseded only through a public notice and comment procedure.

708 (e) By entering into this Contract, the Contractor does not waive any legal
709 rights or remedies it may have to file or participate in any administrative or judicial proceeding
710 contesting (i) the sufficiency of the manner in which any Project M&I Water Shortage Policy

711 adopted after the effective date of this Contract was promulgated; (ii) the substance of such a
712 policy; or (iii) the applicability of such a policy. By agreeing to the foregoing, the Contracting
713 Officer does not waive any legal defenses or remedies that it may then have to assert in such a
714 proceeding.

715 UNAVOIDABLE GROUNDWATER PERCOLATION

716 13. Omitted.

717 RULES, REGULATIONS AND DETERMINATIONS

718 14. (a) The parties agree that the delivery of Project Water or the use of Federal
719 facilities pursuant to this Contract is subject to Federal Reclamation law, as amended and
720 supplemented, and the rules and regulations promulgated by the Secretary of the Interior under
721 Federal Reclamation law.

722 (b) The Contracting Officer shall have the right to make determinations
723 necessary to administer this Contract that are consistent with its expressed and implied
724 provisions, the laws of the United States and the State of California, and the rules and regulations
725 promulgated by the Secretary of the Interior. Such determinations shall be made in consultation
726 with the Contractor.

727 PROTECTION OF WATER AND AIR QUALITY

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

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

740 WATER ACQUIRED BY THE CONTRACTOR
741 OTHER THAN FROM THE UNITED STATES

742 16. (a) Omitted.

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

748 (1) The Contractor may introduce non-Project water into Project
749 facilities and deliver said water to lands within the Contractor's Service Area, including
750 Ineligible Lands subject to payment to the United States of an appropriate rate as determined by
751 the applicable Project ratesetting policy and the Project use power policy, if such Project use
752 power policy is applicable, each as amended, modified, or superseded from time to time.

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

759 (3) The United States shall not be responsible for control, care, or
760 distribution of the non-Project water before it is introduced into or after it is delivered from the
761 Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United
762 States and their respective officers, agents, and employees, from any claim for damage to
763 persons or property, direct or indirect, resulting from the acts of the Contractor, or its officers,
764 employees, agents or assigns, act(s) in (i) extracting or diverting non-Project water from any
765 source, or (ii) diverting such non-Project water into Project facilities.

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

769 (5) After Project purposes are met, as determined by the Contracting
770 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity
771 of the facilities declared to be available by the Contracting Officer for conveyance and
772 transportation of non-Project water prior to any such remaining capacity being made available to
773 non-Project Contractors.

774 OPINIONS AND DETERMINATIONS

775 17. (a) Where the terms of this Contract provide for actions to be based upon the opinion
776 or determination of either party to this Contract, said terms shall not be construed as permitting
777 such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
778 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
779 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,
780 or unreasonable opinion or determination. Each opinion or determination by either party shall be
781 provided in a timely manner. Nothing in subdivision (a) of Article 17 of this Contract is
782 intended to or shall affect or alter the standard of judicial review applicable under Federal law to
783 any opinion or determination implementing a specific provision of Federal law embodied in
784 statute or regulation.

785 COORDINATION AND COOPERATION

786 18. (a) In order to further their mutual goals and objectives, the Contracting
787 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
788 with other affected Project Contractors, in order to improve the operation and management of the

789 Project. The communication, coordination, and cooperation regarding operations and
790 management shall include, but not be limited to, any action which will or may materially affect
791 the quantity or quality of Project Water supply, the allocation of Project Water supply, and
792 Project financial matters including, but not limited to, budget issues. The communication,
793 coordination, and cooperation provided for hereunder shall extend to all provisions of this
794 Contract. Each party shall retain exclusive decision making authority for all actions, opinion,
795 and determinations to be made by the respective party.

796 (b) Within 120 days following the effective date of the Existing Contract, the
797 Contractor, other affected Project Contractors, and the Contracting Officer should arrange to
798 meet with interested Project Contractors to develop a mutually agreeable, written Project-wide
799 process, which may be amended as necessary separate and apart from this Contract. The goal of
800 this process should be to provide, to the extent practicable, the means of mutual communication
801 and interaction regarding significant decisions concerning Project O&M on a real-time basis.

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

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

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

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

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

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

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

824 CHARGES FOR DELINQUENT PAYMENTS

825 19. (a) The Contractor shall be subject to interest, administrative and penalty
826 charges on delinquent payments. If a payment is not received by the due date, the Contractor
827 shall pay an interest charge on the delinquent payment for each day the payment is delinquent
828 beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in
829 addition to the interest charge, an administrative charge to cover additional costs of billing and
830 processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor
831 shall pay, in addition to the interest and administrative charges, a penalty charge for each day the
832 payment is delinquent beyond the due date, based on the remaining balance of the payment due
833 at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt
834 collection services associated with a delinquent payment.

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

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

843 EQUAL EMPLOYMENT OPPORTUNITY

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

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

855 (b) The Contractor will, in all solicitations or advertisements for employees
856 placed by or on behalf of the Contractor, state that all qualified applicants will receive
857 consideration for employment without discrimination because of race, color, religion, sex, sexual
858 orientation, gender identity, or national origin.

859 (c) The Contractor will not discharge or in any other manner discriminate
860 against any employee or applicant for employment because such employee or applicant has
861 inquired about, discussed, or disclosed the compensation of the employee or applicant or another
862 employee or applicant. This provision shall not apply to instances in which an employee who
863 has access to the compensation information of other employees or applicant as part of such
864 employee's essential job functions discloses the compensation of such other employees or
865 applicants to individuals who do not otherwise have access to such information unless such
866 disclosure is in response to a formal complaint or charge, in furtherance of an investigation,
867 proceeding, hearing, or action, including an investigation conducted by the employer, or is
868 consistent with the contractor's legal duty to furnish information.

869 (d) The Contractor will send to each labor union or representative of workers
870 with which it has a collective bargaining agreement or other contract or understanding, a notice,
871 to be provided by the Contracting Officer, advising the labor union or workers' representative of
872 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,
873 1965, and shall post copies of the notice in conspicuous places available to employees and
874 applicants for employment.

875 (e) The Contractor will comply with all provisions of Executive Order No.
876 11246 of Sept. 24, 1965, as amended, and of the rules, regulations, and relevant orders of the
877 Secretary of Labor.

878 (f) The Contractor will furnish all information and reports required by
879 amended Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and
880 orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records,

881 and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation
882 to ascertain compliance with such rules, regulations, and orders.

883 (g) In the event of the Contractor's noncompliance with the nondiscrimination
884 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be
885 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared
886 ineligible for further Government contracts in accordance with procedures authorized in
887 amended Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be
888 imposed and remedies invoked as provided in Executive Order No. 11246 of September 24,
889 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

890 (h) The Contractor will include the provisions of paragraphs (a) through (h) in
891 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
892 Secretary of Labor issued pursuant to Section 204 of amended Executive Order No 11246 of
893 September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor.
894 The Contractor will take such action with respect to any subcontract or purchase order as may be
895 directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions
896 for noncompliance: *Provided*, however, that in the event the Contractor becomes involved in, or
897 is threatened with, litigation with a subcontractor or vendor as a result of such direction, the
898 Contractor may request the United States to enter into such litigation to protect the interests of
899 the United States.

900 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

905 (b) The payment of charges becoming due pursuant to this Contract is a
906 condition precedent to receiving benefits under this Contract. The United States shall not make
907 water available to the Contractor through Project facilities during any period in which the
908 Contractor is in arrears in the advance payment of water rates due the United States. The
909 Contractor shall not deliver water under the terms and Conditions of this Contract for lands or
910 parties that are in arrears in the advance payment of water rates as levied or established by the
911 Contractor.

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

914 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

915 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
916 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as
917 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135,

918 Title III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub.
919 L. 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the
920 applicable implementing regulations and any guidelines imposed by the U.S. Department of the
921 Interior and/or Bureau of Reclamation.

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

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

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

939 PRIVACY ACT COMPLIANCE

940 23. Omitted.

941 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

950

WATER CONSERVATION

951 25. (a) Prior to the delivery of water provided from or conveyed through federally
952 constructed or federally financed facilities pursuant to this Contract, the Contractor shall develop
953 a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of
954 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

955 Additionally, an effective water conservation and efficiency program shall be based on the
956 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
957 the conservation and efficiency criteria for evaluating water conservation plans established under
958 Federal law. The water conservation and efficiency program shall contain definite water
959 conservation objectives, appropriate economically feasible water conservation measures, and
960 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
961 Contract shall be contingent upon the Contractor's continued implementation of such water
962 conservation program. In the event the Contractor's water conservation plan or any revised water
963 conservation plan completed pursuant to subdivision (d) of Article 25 of this Contract have not
964 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
965 the Contracting Officer determines are beyond the control of the Contractor, water deliveries
966 shall be made under this Contract so long as the Contractor diligently works with the Contracting
967 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
968 immediately begins implementing its water conservation and efficiency program in accordance
969 with the time schedules therein.

970 (b) Should the amount of M&I Water delivered pursuant to subdivision (a)
971 of Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall
972 implement the Best Management Practices identified by the time frames issued by the
973 California-Great Basin Region's then-existing conservation and efficiency criteria for such M&I

974 Water unless any such practice is determined by the Contracting Officer to be inappropriate for
975 the Contractor.

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

979 (d) Prior to the expiration of the currently approved water conservation plan,
980 and thereafter at five-year intervals, the Contractor shall revise its water conservation plan to
981 reflect the then-existing conservation and efficiency criteria for evaluating water conservation
982 plans established under Federal law and submit such revised water conservation plan to the
983 Contracting Officer for review and evaluation. The Contracting Officer will then determine if
984 the water conservation plan meets the Bureau of Reclamation's then-existing conservation and
985 efficiency criteria for evaluating water conservation plans established under Federal law.

986 (e) If the Contractor is engaged in direct ground-water recharge, such activity
987 shall be described in the Contractor's water conservation plan.

988 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

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

996 OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

997 27. Omitted.

998 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

999 28. The expenditure or advance of any money or the performance of any obligation of
1000 the United States under this Contract shall be contingent upon appropriation or allotment of
1001 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1002 obligations under this Contract. No liability shall accrue to the United States in case funds are
1003 not appropriated or allotted.

1004 BOOKS, RECORDS, AND REPORTS

1005 29. (a) The Contractor shall establish and maintain accounts and other books and
1006 records pertaining to administration of the terms and conditions of this Contract, including the
1007 Contractor's financial transactions; water supply data; project operation, maintenance, and
1008 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop
1009 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting
1010 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on
1011 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws
1012 and regulations, each party to this Contract shall have the right during office hours to examine
1013 and make copies of the other party's books and records relating to matters covered by this
1014 Contract.

1015 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1016 books, records, or other information shall be requested from the Contractor by the Contracting
1017 Officer unless such books, records, or information are reasonably related to the administration or
1018 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1019 time within which to provide the requested books, records, or information.

1020 (c) Omitted

1021 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1022 30. (a) The provisions of this Contract shall apply to and bind the successors and
1023 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1024 therein shall be valid until approved in writing by the other party.

1025 (b) The assignment of any right or interest in this Contract by either party
1026 shall not interfere with the rights or obligations of the other party to this Contract absent the
1027 written concurrence of said other party.

1028 (c) The Contracting Officer shall not unreasonably condition or withhold
1029 approval of any proposed assignment.

1030 SEVERABILITY

1031 31. In the event that a person or entity who is neither (i) a party to a Project contract,
1032 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor
1033 (iii) an association or other form of organization whose primary function is to represent parties to
1034 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1035 enforceability of a provision included in this Contract and said person, entity, association, or
1036 organization obtains a final court decision holding that such provision is legally invalid or
1037 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1038 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
1039 final court decision identify by mutual agreement the provisions in this Contract which must be
1040 revised and (ii) within three months thereafter promptly agree on the appropriate revision(s).
1041 The time periods specified above may be extended by mutual agreement of the parties. Pending
1042 the completion of the actions designated above, to the extent it can do so without violating any
1043 applicable provisions of law, the United States shall continue to make the quantities of Project
1044 Water specified in this Contract available to the Contractor pursuant to the provisions of this
1045 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1046 RESOLUTION OF DISPUTES

1047 32. Should any dispute arise concerning any provisions of this Contract, or the
1048 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1049 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1050 Officer referring any matter to Department of Justice, the party shall provide to the other party

1051 30-days' written notice of the intent to take such action; *Provided*, That such notice shall not be
1052 required where a delay in commencing an action would prejudice the interests of the party that
1053 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer
1054 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,
1055 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
1056 United States may have.

1057 OFFICIALS NOT TO BENEFIT

1058 33. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1059 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1060 manner as other water users or landowners.

1061 CHANGES IN CONTRACTOR'S SERVICE AREA OR ORGANIZATION

1062 34. (a) While this Contract is in effect, no change may be made in the
1063 Contractor's Service Area or organization, by inclusion or exclusion of lands or by any other
1064 changes which may affect the respective rights, obligations, privileges, and duties of either the
1065 United States or the Contractor under this Contract, including, but not limited to, dissolution,
1066 consolidation, or merger, except upon the Contracting Officer's written consent.

1067 (b) Within 30 days of receipt of a request for such a change, the Contracting
1068 Officer will notify the Contractor of any additional information required by the Contracting
1069 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1070 schedule for timely completion of the process. Such process will analyze whether the proposed
1071 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1072 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1073 to pay for any Federally-constructed facilities for which the Contractor is responsible; and
1074 (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition,
1075 the Contracting Officer shall comply with NEPA and ESA. The Contractor will be responsible
1076 for all costs incurred by the Contracting Officer in this process, and such costs will be paid in
1077 accordance with Article 24 of this Contract.

1078 FEDERAL LAWS

1079 35. By entering into this Contract, the Contractor does not waive its rights to contest
1080 the validity or application in connection with the performance of the terms and conditions of this
1081 Contract of any Federal law or regulation; *Provided*, That the Contractor agrees to comply with
1082 the terms and conditions of this Contract unless and until relief from application of such Federal
1083 law or regulation to the implementing provision of the Contract is granted by a court of
1084 competent jurisdiction.

1085 NOTICES

1086 36. Any notice, demand, or request authorized or required by this Contract shall be
1087 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1088 delivered to the Area Manager, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom,
1089 California 95630-1799, and on behalf of the United States, when mailed, postage prepaid, or
1090 delivered to the Board of Directors of the El Dorado Irrigation District, 2890 Mosquito Road,
1091 Placerville, California 95667. The designation of the addressee or the address may be changed
1092 by notice given in the same manner as provided in this Article for other notices.

1093 CONFIRMATION OF CONTRACT

1094 37. Promptly after the execution of this contract, the Contractor will provide evidence
1095 to the Contracting Officer that, pursuant to the laws of the State of California, the Contractor is a
1096 legally constituted entity and the contract is lawful, valid, and binding on the Contractor. This
1097 contract will not be binding on the United States until the Contractor provides evidence to the
1098 Contracting Officer's satisfaction. In addition to other forms of evidence to meet the
1099 requirements of this Article, the Contractor may provide or the Contracting Officer may require a
1100 certified copy of a final decree of a court of competent jurisdiction in the State of California,
1101 confirming the proceedings on the part of the Contractor for the authorization of the execution of
1102 this contract.

1103 CERTIFICATION OF NONSEGREGATED FACILITIES

1104 38. Omitted

1105 MEDIUM FOR TRANSMITTING PAYMENTS

1106 39. (a) All payments from the Contractor to the United States under this Contract
1107 shall be by the medium requested by the United States on or before the date payment is due. The
1108 required method of payment may include checks, wire transfers, or other types of payment
1109 specified by the United States.

1110 (b) The Contractor shall furnish the Contracting Officer with the Contractor's
1111 taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for
1112 collecting and reporting any delinquent amounts arising out of the Contractor's relationship with
1113 the United States.

1114 CONTRACT DRAFTING CONSIDERATIONS

1115 40. This amended Contract has been, negotiated and reviewed by the parties hereto,
1116 each of whom is sophisticated in the matters to which this amended Contract pertains. The
1117 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by
1118 the parties, and no one party shall be considered to have drafted the stated articles. Single-
1119 spaced articles are standard articles pursuant to Reclamation policy.

1120 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of
1121 the day and year first above written.

1122 UNITED STATES OF AMERICA

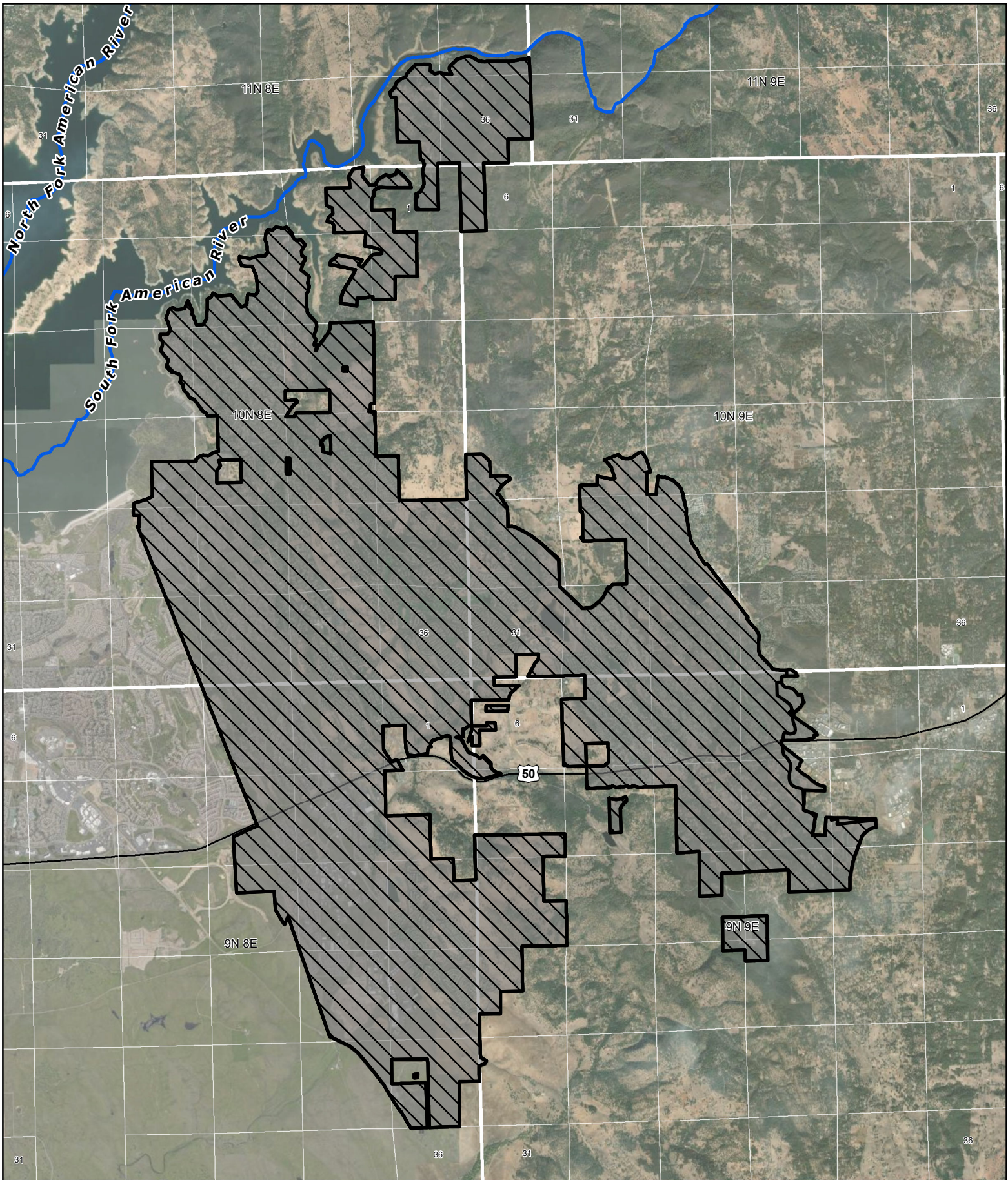
1123 By: _____
1124 Regional Director
1125 Interior Region 10: California-Great Basin
1126 Region Bureau of Reclamation



1127 EL DORADO IRRIGATION DISTRICT

1128 By: _____
1129 General Manager
1130 El Dorado Irrigation District

1131 Attest:

1132 By: _____
1133 Secretary
1134 El Dorado Irrigation District



-  District Boundary
-  Contractor's Service Area

El Dorado Irrigation District

Contract No. 14-06-200-1357A-LTR1-P
Exhibit A



— BUREAU OF —
RECLAMATION

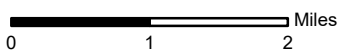


Exhibit B
EL DORADO IRRIGATION DISTRICT
2021 Rates and Charges
(Per Acre-Foot)

| | M&I Water |
|--|----------------------|
| COST-OF-SERVICE (COS) RATE | |
| Construction Component | N/A |
| O&M Component | |
| Water Marketing | \$8.97 |
| Storage | \$24.62 |
| Deficit Cost Component | \$1.07 |
| | |
| TOTAL COS RATE <i>(Tier 1 Rate)</i> | \$34.66 |
| M&I FULL COST RATE | |
| | \$0.00 |
| TIERED PRICING COMPONENTS <i>(In Addition to Total COS Rate Above)</i> | |
| M&I | |
| <i>Tier 2 Rate : >80% <=90% of Contract Total</i> [M&I Full Cost Rate - M&I COS Rate]/2 <i>(Amount to be Added to Tier 1 Rate)</i> | \$0.00 |
| <i>Tier 3 Rate : >90% of Contract Total</i> [M&I Full Cost Rate - M&I COS Rate] <i>(Amount to be Added to Tier 1 Rate)</i> | \$0.00 |
| CHARGES AND ASSESSMENTS <i>(Payments in Addition to Rates)</i> | |
| P.L. 102-575 Surcharges (Restoration Fund Payments) ¹ [Section 3407(d)(2)(A)] | \$22.23 |
| P.L. 106-377 Assessment (Trinity Public Utilities District) ² [Appendix B, Section 203] | \$0.15 |

EXPLANATORY NOTES

- 1 The surcharges were determined pursuant to Title XXXIV of P.L. 102-575. Restoration Fund surcharges under P.L.102-575 are determined on a fiscal year basis (10/1-9/30).
- 2 The Trinity Public Utilities District Assessment is applicable to each acre-foot of water delivered from 3/1/2021-2/28/2022 and is adjusted annually.

The Historical Use, as defined in the CVP M&I Water Shortage Policy, is **TBD** acre-feet.

Additional details of the rate components are available on the Internet at
www.usbr.gov/mp/cvpwaterrates/.

Exhibit C[@]

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

| Unpaid Construction Cost from the 2021 Water Rate Books* |
|--|
|--|

Contractor: El Dorado ID
Facility: Folsom D&R
Contract: 14-06-200-1357A-LTR1-P

| Irrigation Construction Cost (2021 Irrigation Ratebook, Schedule A-2Ba) | | |
|--|-------------|-------------|
| | Unpaid Cost | Discount |
| Construction Cost | ~ \$ - | |
| 2020 Repayment (Estimate) ** | \$ - | |
| Adjusted Construction Cost | \$ - | \$ - |
| Intertie Construction Cost (N/A): | \$ - | \$ - |
| Total | \$ - | \$ - |
| If Paid in Installments (Used 20 yr CMT) | | |
| | Due**** | |
| Payment 1 | 2/1/2021 | \$ - |
| Payment 2 | 2/1/2022 | \$ - |
| Payment 3 | 2/1/2023 | \$ - |
| Payment 4 | 2/1/2024 | \$ - |
| Total Installment Payments | | \$ - |
| 20 yr CMT Rates - 01/07/2021 (to be adjusted to effective date of contract) [@] | | 0.000% |
| Discount Rate (1/2 of the Treasury Rate per the WIIN Act, Section 4011(a)(2)(A)) | | 0.000% |

| M&I Construction Cost (2020 M&I Ratebook, Sch A-2Ba) | |
|--|-------------------|
| | Unpaid Cost |
| Construction Cost: | ~ \$ 206,722 |
| 2020 Repayment (Estimate) ** | \$ 9,006 |
| Adjusted Construction Cost***: | \$ 197,716 |

Calculation Support: Irrigation Lump Sum or First Payment**** 2/1/2021
 Days Until the End of the Fiscal Year 241

| Fiscal Yr | Unpaid Allocated Construction Cost | | | Unpaid Intertie Construction Cost | | | Total |
|--------------------------------|------------------------------------|-------------------------|---------------|-----------------------------------|-------------------------|---------------|----------------|
| | Beginning Balance | Straight Line Repayment | Present Value | Beginning Balance | Straight Line Repayment | Present Value | Present Values |
| 2021 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2022 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2023 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2024 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2025 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2026 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2027 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2028 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2029 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2030 | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - | \$ - |
| 2031-63 | | | | \$ - | \$ - | \$ - | \$ - |
| Total, Lump Sum Payment | | | \$ - | | | \$ - | \$ - |

Amount of Reduction, Lump Sum \$ - \$ - \$ -

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

**2020 Repayment is based on a conservative estimate. If not sufficient, the remainder will be billed.

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

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

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

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

LONG-TERM CENTRAL VALLEY PROJECT WATER SERVICE CONTRACT CONVERSION

El Dorado Irrigation District

January 11, 2021

PREVIOUS BOARD ACTION

- August 10, 2020 – Board adopted Resolution No. 2020-013, appointing District negotiators for potential conversion of the District’s existing Long-Term Water Service Contract pursuant to the Water Infrastructure Improvements for the Nation Act.

SUMMARY

- Water Infrastructure Improvements for the Nation Act of 2016 (WIIN Act)
 - Convert eligible Long-Term Water Service Contracts (WS Contract)
 - Benefits District's long-term strategic interests
- Staff recommends conversion

CONTRACT OVERVIEW

- WS Contract with Reclamation for six decades
 - 7,550 acre-feet annually of Central Valley Project (CVP) water from Folsom Reservoir
 - Last renewed 2006 for 40-year term
- WIIN Act opportunity to convert to indefinite term
 - Largely under existing terms
- Eligible regional partners have also pursued conversion
 - El Dorado County Water Agency WS Contract not eligible for conversion under WIIN Act

PUBLIC PARTICIPATION

- Multiple negotiation sessions publically noticed
 - No public elected to participate
- Negotiated contract noticed for public review
 - 60-day period
 - No comments received

SCHEDULE

- Board consideration January 11
 - Special Board meeting due to timing of contract offer
- Reclamation countersignatures, contract confirmation and payments week of January 11
- Contract effective March 1

FUNDING

- Conversion requires prepayment of remaining construction capital cost outlay obligations
- Absent conversion would continue to be paid monthly
- Remaining balance approximately \$207,000
- Paid from same cost center as existing monthly payments for existing contract
 - Operations Department Drinking Water Division annual operating budget

ENVIRONMENTAL REVIEW

- Project is statutorily exempt from California Environmental Quality Act (CEQA) as an “ongoing project” (CEQA Guidelines §15261)
- Contract is continuation of two existing contracts first executed in 1958 and 1965
- Subsequently merged into current contract that has since been renewed on multiple occasions over the past six decades

ENVIRONMENTAL REVIEW

- Project is categorically exempt as a Class I CEQA Categorical Exemption
 - Operation of existing facilities involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination (CEQA Guidelines §15301)
 - No changes to the continued operations of existing diversion facilities or uses of water diverted
- Notice of Exemption (NOE) from CEQA to be filed El Dorado County Recorder-Clerk's office upon Board approval

BOARD OPTIONS

- **Option 1:** Adopt a resolution authorizing the conversion of the District's existing Long-Term Central Valley Project Water Service Contract, No. 14-06-200-1357A-LTR I-P, pursuant to the Water Infrastructure Improvements for the Nation Act.
- **Option 2:** Take other action as directed by the Board.
- **Option 3:** Take no action.

RECOMMENDATION

- Option I

QUESTIONS?