

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

INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
THE CITY OF ROSEVILLE
PROVIDING FOR PROJECT WATER SERVICE
FROM THE AMERICAN RIVER DIVISION

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Exhibit A – Map of Contractor's Service Area

Exhibit B – Rates and Charges

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

5 INTERIM RENEWAL CONTRACT BETWEEN THE UNITED STATES
6 AND
7 THE CITY OF ROSEVILLE
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM THE AMERICAN RIVER DIVISION

10 THIS CONTRACT, made this 30th day of December, 2010, in
11 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
12 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844),
13 as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,
14 June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050),
15 as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively
16 hereinafter referred to as Federal Reclamation law, between the UNITED STATES OF
17 AMERICA, hereinafter referred to as the United States, and the CITY OF ROSEVILLE,
18 hereinafter referred to as the Contractor, a public agency of the State of California, duly
19 organized, existing, and acting pursuant to the laws thereof,

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1st] WHEREAS, the United States has constructed and is operating the Central Valley
23 Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for
24 flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection
25 and restoration, generation and distribution of electric energy, salinity control, navigation and

26 other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River,
27 and the San Joaquin River and their tributaries; and

28 [2nd] WHEREAS, the United States constructed Folsom Dam and Reservoir,
29 hereinafter collectively referred to as the American River Division, which will be used in part for
30 the furnishing of water to the Contractor pursuant to the terms of this Contract; and

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

33 [4th] WHEREAS, the Contractor and the United States entered into Contract
34 No. 14-06-200-3474A, dated September 9, 1967, which contract was amended on
35 November 30, 1976 and is hereinafter referred to as the Existing Contract, which established
36 terms for the annual delivery of up to 32,000 af to the Contractor of Project Water from the
37 American River Division from January 1, 1971, through December 31, 2010; and

38 [5th] WHEREAS, the United States and the Contractor have, subsequently entered into
39 a binding agreement, identified as Binding Agreement No. 14-06-200-3474A-BA, which sets out
40 the terms pursuant to which the Contractor agreed to renew the Existing Contract before its
41 expiration date after completion of a Programmatic Environmental Impact Statement (PEIS) and
42 other appropriate environmental documentation and negotiation of a renewal contract, and which
43 also sets out the consequences of a subsequent decision not to renew; and

44 [6th] WHEREAS, Section 3404(c) of the Central Valley Project Improvement
45 Act (CVPIA) provides for long-term renewal of the Existing Contract following completion of
46 appropriate environmental documentation, including the PEIS, which was required by
47 Section 3409 of the CVPIA, pursuant to the National Environmental Policy Act (NEPA)

48 analyzing the direct and indirect impacts and benefits of implementing the CVPIA and the
49 potential renewal of all existing contracts for Project Water; and

50 [6.1] Omitted; and

51 [7th] WHEREAS, the United States has determined that the Contractor has fulfilled all
52 of its obligations under the Existing Contract including the installation of facilities necessary to
53 provide water to the Contractor at a rate of 150 cubic feet per second under Article 5(d) of the
54 Existing Contract; and

55 [8th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
56 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
57 reasonable and beneficial use and/or has demonstrated projected future demand for water use such
58 that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use
59 the quantity of Project Water to be made available to it pursuant to this Contract; and

60 [9th] WHEREAS, water obtained from the Project has been relied upon by urban areas
61 within California for more than 50 years, and is considered by the Contractor as an essential
62 portion of its water supply; and

63 [10th] WHEREAS, the economies of regions within the Project, including the
64 Contractor's, depend upon the continued availability of water, including water service from the
65 Project; and

66 [10.1] WHEREAS, in the California Bay-Delta Authority (CALFED) Programmatic
67 Record of Decision, dated August 28, 2000, the United States and the State of California adopted
68 a general target of continuously improving Delta water quality for all uses. The CALFED
69 Agencies' target for providing safe, reliable, and affordable drinking water in a cost-effective
70 way, is to achieve either: "(a) average concentrations at Clifton Court Forebay and other

71 southern and central Delta drinking water intakes of 50 ug/L bromide and 3.0 mg/L total organic
72 carbon, or (b) an equivalent level of public health protection using a cost-effective combination
73 of alternative source waters, source control and treatment technologies;" and

74 [11th] WHEREAS, the Secretary of the Interior (Secretary) intends through
75 coordination, cooperation, and partnerships to pursue measures to improve water supply, water
76 quality, and reliability of the Project for all Project purposes; and

77 [11.1] WHEREAS, the Contractor and the water users in its Service Area have improved
78 and will continue to improve water use efficiency through water conservation, water reclamation,
79 and other Best Management Practices; however, implementing these measures have reduced and
80 continue to reduce the ability of the Contractor and the water users in its Service Area to
81 withstand a Condition of Shortage; and

82 [12th] WHEREAS, the mutual goals of the United States and the Contractor include: to
83 provide for reliable Project Water supplies; to control costs of those supplies; to achieve
84 repayment of the Project as required by law; to guard reasonably against Project Water
85 shortages; to achieve a reasonable balance among competing demands for use of Project Water;
86 and to comply with all applicable environmental statutes, all consistent with the legal obligations
87 of the United States relative to the Project; and

88 [13th] WHEREAS, the parties intend by this Contract to develop a more cooperative
89 relationship in order to achieve their mutual goals; and

90 [13.1] WHEREAS, the Contractor is a signatory to the Water Forum Agreement, dated
91 April 14, 2000, which has the co-equal objectives to (1) provide a reliable and safe water supply
92 for the Sacramento region's economic health and planned development through the year 2030,

93 and (2) preserve the fishery, wildlife, recreational and aesthetic values of the lower American
94 River; and

95 [13.2] WHEREAS, the Contracting Officer is in support of the co-equal objectives of the
96 Water Forum Agreement and intends to work cooperatively with the Contractor to investigate
97 actions that they could take to implement the objectives of the Water Forum Agreement, which,
98 if agreed to, would be the subject of a separate agreement between them; and

99 [13.3] WHEREAS, the Contractor has utilized or may utilize transfers, contract
100 assignments, rescheduling and conveyance of non-project water under this Contract as tools to
101 minimize the impacts of Conditions of Shortage and to maximize the beneficial use of Project
102 Water; and

103 [13.4] WHEREAS, the parties desire and intend that this Contract not provide a
104 disincentive to the Contractor in continuing to carry out the beneficial activities set out
105 immediately above, and

106 [13.5] WHEREAS, in order to continue water service provided under Project water
107 service contracts that expire prior to the completion of all appropriate environmental
108 documentation, the United States intends to execute interim renewal contracts pursuant to
109 Section 3404(c)(1) of the CVPIA, for a period not to exceed three (3) years in length, and for
110 successive interim periods of not more than two (2) years in length, until such appropriate
111 environmental documentation, is finally completed, at which time the Secretary shall, pursuant to
112 Federal Reclamation law, upon request of the Contractor, enter into a long-term renewal contract
113 for a period of forty (40) years; and may thereafter renew such long-term renewal contracts for
114 successive periods not to exceed forty (40) years each; and

115 [14th] WHEREAS, the United States and the Contractor are willing to enter into and
116 execute this interim renewal contract (hereinafter "Contract") consistent with the provisions of
117 section 3404(c) of the CVPIA and pursuant to Federal Reclamation law on the terms and
118 conditions set forth below.

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 as determined annually by the Contracting Officer pursuant to this
128 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 35 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 Water Made Available from the Project that
157 is used primarily in the production of agricultural crops or livestock, including domestic use
158 incidental thereto, and watering of livestock;

159 (n) Omitted;

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

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

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

172 (r) Omitted;

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

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

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

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

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

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

190 (y) Omitted

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

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

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

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

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TERM OF CONTRACT

2. (a) This Contract shall be effective from January 1, 2011 and shall remain in effect through February 28, 2013, and thereafter will be renewed as described in this Article. Except as provided in subdivision (b) of this Article, until completion of all appropriate environmental review, and provided that the Contractor has complied with all the terms and conditions of the interim renewal contract in effect for the period immediately preceding the requested successive interim renewal contract, this Contract will be renewed, upon request of the Contractor, for successive interim periods each of which shall be no more than two (2) years in length. Also, except as provided in subdivision (b) of this Article, in order to promote orderly and cost effective contract administration, the terms and conditions in subsequent interim renewal contracts shall be identical to the terms and conditions in the interim renewal contract immediately preceding the subsequent interim renewal contract: Provided, however, That each party preserves the right to propose modification(s) in any interim renewal contract other than those described in subdivision (b) of this Article, in which case the parties shall negotiate in good faith appropriate modification(s) to be included in any successive interim renewal contracts. Said modification(s) of each successive interim renewal contract shall be agreed upon within a reasonable time prior to the expiration of the then existing interim renewal contract. Nothing in this Article shall in any way alter the obligation that, upon final completion of any necessary supplemental environmental documentation, the Secretary shall, pursuant to Federal Reclamation law, upon request of the Contractor, enter into a long-term renewal contract for a period of forty (40) years and may thereafter renew such long-term renewal contracts for successive periods not to exceed forty (40) years each.

224 (b) The parties have engaged and if necessary will continue to engage in good
225 faith negotiations intended to permit the execution of a forty (40) year long-term renewal
226 contract contemplated by Section 3404 (c) of the CVPIA, hereinafter referred to as a “long-term
227 renewal contract”. The parties recognize the possibility that this schedule may not be met
228 without further negotiations. Accordingly: In the event (i) the Contractor and Contracting
229 Officer have reached agreement on the terms of the Contractor’s long-term renewal contract or
230 (ii) the Contractor and Contracting Officer have not completed the negotiations on the
231 Contractor’s long-term renewal contract, believe that further negotiations on that contract would
232 be beneficial, and mutually commit to continue to negotiate to seek to reach agreement, but (iii)
233 all environmental documentation required to allow execution of the Contractor’s long-term
234 renewal contract by both parties has not been completed in time to allow execution of the
235 Contractor’s long-term renewal contract by February 28, 2013, then (iv) the parties will
236 expeditiously complete the environmental documentation required of each of them in order to
237 execute the Contractor’s long-term renewal contract at the earliest practicable date. In addition,
238 the Contractor’s then-current interim renewal contract will be renewed without change upon the
239 request of either party through the agreed-upon effective date of the Contractor’s long-term
240 renewal contract or, in the absence of agreement on the terms of the Contractor’s long-term
241 renewal contract, through the succeeding February 28.

242 (c) The omission of language in this Contract providing for conversion of this
243 interim renewal contract or any subsequent renewals thereof to a repayment contract pursuant to
244 subsection (c)(1) of Section 9 of the Reclamation Projects Act of 1939 (53 Stat. 1187), shall not
245 prejudice the Contractor’s right to assert a right to have such language included in subsequent

246 renewals of this Contract or to exercise such conversion, all as provided by law, or to negotiate
247 the language regarding such conversion to be included in subsequent renewal contracts.

248 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

249 3. (a) During each Year, consistent with all applicable State water rights,
250 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of
251 this Contract, the Contracting Officer shall make available for delivery to the Contractor up
252 to 32,000 acre-feet of Project Water for M&I purposes. Provided, however, during the two (2)
253 month period of January and February of 2011, the Contracting Officer shall make available for
254 delivery to the Contractor that portion of the 2010 allocation of Project Water unused by the
255 Contractor under the Existing Contract. Water Delivered to the Contractor in accordance with
256 this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of
257 this Contract.

258 (b) Because the capacity of the Project to deliver Project Water has been
259 constrained in recent years and may be constrained in the future due to many factors including
260 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
261 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this
262 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the
263 PEIS projected that the Contract Total set forth in this Contract will not be available to the
264 Contractor in many years. During the most recent five years, the Recent Historic Average of
265 Water Made Available to the Contractor was 30,400 acre feet. Nothing in subdivision (b) of this
266 Article shall affect the rights and obligations of the parties under any provision of this Contract.

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

269 (d) The Contractor shall make reasonable and beneficial use of all water
270 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu),
271 ground-water banking programs, surface water storage programs, and other similar programs
272 utilizing Project Water or other water furnished pursuant to this Contract conducted within the
273 Contractor's Service Area which are consistent with applicable State law and result in use
274 consistent with Federal Reclamation law will be allowed; Provided, That any direct recharge
275 program(s) is (are) described in the Contractor's water conservation plan submitted pursuant to
276 Article 26 of this Contract; Provided, further, That such water conservation plan demonstrates
277 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average,
278 the quantity of Delivered Water is demonstrated to be reasonable for such uses and in
279 compliance with Federal Reclamation law. Ground-water recharge programs, groundwater
280 banking programs, surface water storage programs, and other similar programs utilizing Project
281 Water or other water furnished pursuant to this Contract conducted outside the Contractor's
282 Service Area may be permitted upon written approval of the Contracting Officer, which approval
283 will be based upon environmental documentation, Project Water rights, and Project operational
284 concerns. The Contracting Officer will address such concerns in regulations, policies, or
285 guidelines.

286 (e) The Contractor shall comply with requirements applicable to the
287 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
288 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),
289 as amended, that are within the Contractor's legal authority to implement. The Existing
290 Contract, which evidences in excess of 30 years of diversions for M&I purposes of the quantities
291 of water provided in subdivision (a) of Article 3 of this Contract, will be considered in

292 developing an appropriate baseline for the biological assessment prepared pursuant to the ESA,
293 and any other needed environmental review. Nothing herein shall be construed to prevent the
294 Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with
295 respect to any biological opinion or other environmental documentation referred to in this Article.

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

309 (g) The Contractor may request permission to reschedule for use during the
310 subsequent Year some or all of the Water Made Available to the Contractor during the current
311 Year, referred to as "carryover." The Contractor may request permission to use during the
312 current Year a quantity of Project Water which may be made available by the United States to
313 the Contractor during the subsequent Year, referred to as "preuse." The Contracting Officer's

314 written approval may permit such uses in accordance with applicable statutes, regulations,
315 guidelines, and policies.

316 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
317 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract
318 during the term thereof and any subsequent renewal contracts, as described in Article 2 of this
319 Contract, during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all
320 of its obligations under this Contract and any renewals thereof. Nothing in the preceding
321 sentence shall affect the Contracting Officer's ability to impose shortages under Article 11 or
322 subdivision (b) of Article 12 of this Contract or applicable provisions of any subsequent renewal
323 contracts.

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

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

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TIME FOR DELIVERY OF WATER

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4. (a) On or about February 20 of each Calendar Year, the Contracting Officer

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shall announce the Contracting Officer's expected declaration of the Water Made Available.

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Such declaration will be expressed in terms of both Water Made Available and the Recent

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Historic Average and will be updated monthly, and more frequently if necessary, based on

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then-current operational and hydrologic conditions and a new declaration with changes, if any, to

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the Water Made Available will be made. The Contracting Officer shall provide forecasts of

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Project operations and the basis of the estimate, with relevant supporting information, upon the

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written request of the Contractor. Concurrently with the declaration of the Water Made

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Available, the Contracting Officer shall provide the Contractor with the updated Recent Historic

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Average.

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(b) On or before each March 1 and at such other times as necessary, the

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Contractor shall submit to the Contracting Officer a written schedule, satisfactory to the

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Contracting Officer, showing the monthly quantities of Project Water to be delivered by the

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United States to the Contractor pursuant to this Contract for the Year commencing on such

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March 1. The Contracting Officer shall use all reasonable means to deliver Project Water

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according to the approved schedule for the Year commencing on such March 1.

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(c) The Contractor shall not schedule Project Water in excess of the quantity

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of Project Water the Contractor intends to put to reasonable and beneficial use within the

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Contractor's Service Area or to sell, transfer, or exchange pursuant to Article 9 of this Contract

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during any Year.

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(d) Subject to the conditions set forth in subdivision (a) of Article 3 of this

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Contract, the United States shall deliver Project Water to the Contractor in accordance with the

359 initial schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any
360 written revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable
361 time prior to the date(s) on which the requested change(s) is/are to be implemented.

362 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

363 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
364 Contract shall be delivered to the Contractor at the outlet from the 84-inch pipeline leading from
365 Folsom pumping plant to the Hinkle Wye and any additional point or points of delivery either on
366 Project facilities or another location or locations mutually agreed to in writing by the Contracting
367 Officer and the Contractor.

368 (b) The Contracting Officer shall make all reasonable efforts to maintain
369 sufficient flows and levels of water in Project Facilities to deliver Project Water to the Contractor
370 at the point or points of delivery established pursuant to subdivision (a) of this Article.

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

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

382 (e) The Contracting Officer shall not be responsible for the control, carriage,
383 handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
384 Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor
385 shall indemnify the United States, its officers, employees, agents, and assigns on account of
386 damage or claim of damage of any nature whatsoever for which there is legal responsibility,
387 including property damage, personal injury, or death arising out of or connected with the control,
388 carriage, handling, use, disposal, or distribution of such Water Delivered beyond such delivery
389 points, except for any damage or claim arising out of: (i) acts or omissions of the Contracting
390 Officer or any of its officers, employees, agents, or assigns with the intent of creating the
391 situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or
392 any of its officers, employees, agents, or assigns; (iii) negligence of the Contracting Officer or
393 any of its officers, employees, agents, or assigns; or (iv) damage or claims resulting from a
394 malfunction of facilities owned and/or operated by the United States.

395 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

396 6. (a) The Contractor shall ensure that, unless the Contractor establishes an
397 alternative measurement program satisfactory to the Contracting Officer, all surface water
398 delivered for M&I purposes is measured at each M&I service connection. The water measuring
399 devices or water measuring methods of comparable effectiveness must be acceptable to the
400 Contracting Officer. The Contractor shall be responsible for installing, operating, and
401 maintaining and repairing all such measuring devices and implementing all such water
402 measuring methods at no cost to the United States. The Contractor shall use the information
403 obtained from such water measuring devices or water measuring methods to ensure its proper
404 management of the water, to bill water users for water delivered by the Contractor; and, if

405 applicable, to record Water Delivered for M&I purposes by customer class as defined in the
406 Contractor's water conservation plan provided for in Article 26 of this Contract. Nothing herein
407 contained, however, shall preclude the Contractor from establishing and collecting any charges,
408 assessments, or other revenues authorized by California law. The Contractor shall include a
409 summary of all its annual surface water deliveries in the annual report described in subdivision
410 (c) of Article 26.

411 (b) To the extent the information has not otherwise been provided, upon
412 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
413 report describing the measurement devices or water measuring methods being used or to be used
414 to implement subdivision (a) of this Article and identifying the M&I service connections or
415 alternative measurement programs approved by the Contracting Officer, at which such
416 measurement devices or water measuring methods are being used, and, if applicable, identifying
417 the locations at which such devices and/or methods are not yet being used including a time
418 schedule for implementation at such locations. The Contracting Officer shall advise the
419 Contractor in writing within 60 days as to the adequacy and necessary modifications, if any, of
420 the measuring devices or water measuring methods identified in the Contractor's report and if the
421 Contracting Officer does not respond in such time, they shall be deemed adequate. If the
422 Contracting Officer notifies the Contractor that the measuring devices or methods are
423 inadequate, the parties shall within 60 days following the Contracting Officer's response,
424 commence to negotiate in good faith how, and the earliest practicable date by which, the
425 Contractor shall modify said measuring devices and/or measuring methods as required by the
426 Contracting Officer to ensure compliance with subdivision (a) of this Article.

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

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

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

435 RATES AND METHOD OF PAYMENT FOR WATER

436 7. (a) The Contractor shall pay the United States as provided in this Article for
437 all Delivered Water at Rates and Charges established in accordance with: (i) the Secretary's
438 then-existing ratesetting policy for M&I Water, which ratesetting policy shall be amended,
439 modified, or superseded only through a public notice and comment procedure; (ii) applicable
440 Federal Reclamation law and associated rules and regulations, or policies; and (iii) other
441 applicable provisions of this Contract. Payments shall be made by cash transaction, electronic
442 funds transfer, or any other mechanism as may be agreed to in writing by the Contractor and the
443 Contracting Officer. The Rates and Charges applicable to the Contractor upon execution of this
444 Contract are set forth in Exhibit "B," as may be revised annually.

445 (b) The Contracting Officer shall notify the Contractor of the Rates and
446 Charges, as follows:

447 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
448 provide the Contractor an estimate of the Charges for Project Water that will be applied
449 to the period October 1, of the current Calendar Year, through September 30, of the

450 following Calendar Year, and the basis for such estimate. The Contractor shall be
451 allowed not less than two months to review and comment on such estimates. On or
452 before September 15 of each Calendar Year, the Contracting Officer shall notify the
453 Contractor in writing of the Charges to be in effect during the period October 1 of the
454 current Calendar Year, through September 30, of the following Calendar Year, and such
455 notification shall revise Exhibit "B."

456 (2) Prior to October 1 of each Calendar Year, the Contracting Officer
457 shall make available to the Contractor an estimate of the Rates for Project Water for the
458 following Year and the computations and cost allocations upon which those Rates are
459 based. The Contractor shall be allowed not less than two months to review and comment
460 on such computations and cost allocations. By December 31 of each Calendar Year, the
461 Contracting Officer shall provide the Contractor with the final Rates to be in effect for
462 the upcoming Year, and such notification shall revise Exhibit "B."

463 (c) At the time the Contractor submits the initial schedule for the delivery of
464 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
465 Contractor shall make an advance payment to the United States equal to the total amount payable
466 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
467 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
468 Year. Before the end of the first month and before the end of each calendar month thereafter, the
469 Contractor shall make an advance payment to the United States, at the Rate(s) set under
470 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
471 during the second month immediately following. Adjustments between advance payments for
472 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of

473 the following month; Provided, That any revised schedule submitted by the Contractor pursuant
474 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
475 Contract during any month shall be accompanied with appropriate advance payment, at the Rates
476 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
477 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
478 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
479 additional Project Water shall be delivered to the Contractor unless and until an advance
480 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
481 between the advance payments for the Water Scheduled and payments for the quantities of Water
482 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
483 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried
484 over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last
485 day of February.

486 (d) The Contractor shall also make a payment in addition to the Rate(s) in
487 subdivision (c) of this Article to the United States for Water Delivered, at the Charges then in
488 effect, before the end of the month following the month of delivery. The payments shall be
489 consistent with the quantities of M&I Water Delivered as shown in the water delivery report for
490 the subject month prepared by the Contracting Officer. The water delivery report shall be
491 deemed a bill for the payment of Charges for Water Delivered. Adjustment for overpayment or
492 underpayment of Charges shall be made through the adjustment of payments due to the United
493 States for Charges for the next month. Any amount to be paid for past due payment of Charges
494 shall be computed pursuant to Article 20 of this Contract.

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

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

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

507 (h) The Contracting Officer shall keep its accounts pertaining to the
508 administration of the financial terms and conditions of its long-term contracts, in accordance
509 with applicable Federal standards, so as to reflect the application of Project costs and revenues.
510 The Contracting Officer shall, each Year upon request of the Contractor, provide to the
511 Contractor a detailed accounting of all Project and Contractor expense allocations, the
512 disposition of all Project and Contractor revenues, and a summary of all water delivery
513 information. The Contracting Officer and the Contractor shall enter into good faith negotiations
514 to resolve any discrepancies or disputes relating to accountings, reports, or information.

515 (i) The parties acknowledge and agree that the efficient administration of this
516 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
517 policies, and procedures used for establishing Rates and Charges, and/or for making and

518 allocating payments, other than those set forth in this Article may be in the mutual best interest
519 of the parties, it is expressly agreed that the parties may enter into agreements to modify the
520 mechanisms, policies, and procedures for any of those purposes while this Contract is in effect
521 without amending this Contract.

522 (j) (1-3) Omitted

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

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

536 (m) Omitted.

537 (n) Omitted.

538 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

539 8. Omitted.

540 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

552 (b) In order to facilitate efficient water management, among Project
553 Contractors located within the same geographical area, by means of water transfers and to allow
554 the Contractor to participate in an accelerated water transfer program during the term of this
555 Contract, the Contracting Officer shall prepare, as appropriate, all necessary environmental
556 documentation including, but not limited to, documents prepared pursuant to NEPA and ESA
557 analyzing annual transfers within such geographical areas and the Contracting Officer shall
558 determine whether such transfers comply with applicable law. Following the completion of the
559 environmental documentation, such transfers addressed in such documentation shall be
560 conducted with advance notice to the Contracting Officer, but shall not require prior written
561 approval by the Contracting Officer. Such environmental documentation and the Contracting
562 Officer's compliance determination shall be reviewed every five years and updated, as necessary,

563 prior to the expiration of the then-existing five-year period. All subsequent environmental
564 documentation shall include an alternative to evaluate not less than the quantity of Project Water
565 historically transferred within the same geographical area.

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

577 (d) Solely for the purpose of determining whether Section 3405(a)(1)(M) of
578 the CVPIA applies to the Contractor as a transferor or transferee of Project Water, the
579 Contracting Officer acknowledges that the Contractor is within a county, watershed or other area
580 of origin, as those terms are utilized under California law, of water that constitutes the natural
581 flow of the American River and its tributaries above the confluence of the American and
582 Sacramento Rivers.

583 APPLICATION OF PAYMENTS AND ADJUSTMENTS

584 10. (a) The amount of any overpayment by the Contractor of the Contractor's
585 O&M, capital, and deficit (if any) obligations for the Year shall be applied first to any current

586 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
587 more than \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount
588 of such overpayment, at the option of the Contractor, may be credited against amounts to become
589 due to the United States by the Contractor. With respect to overpayment, such refund or
590 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to
591 have the right to the use of any of the Project Water supply provided for herein. All credits and
592 refunds of overpayments shall be made within 30 days of the Contracting Officer obtaining
593 direction as to how to credit or refund such overpayment in response to the notice to the
594 Contractor that it has finalized the accounts for the Year in which the overpayment was made.

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

600 TEMPORARY REDUCTIONS--RETURN FLOWS

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

606 (b) The Contracting Officer may temporarily discontinue or reduce the
607 quantity of Water Delivered to the Contractor as herein provided for the purposes of
608 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or

609 any part thereof necessary for the delivery of Project Water to the Contractor, but so far as
610 feasible the Contracting Officer will give the Contractor due notice in advance of such temporary
611 discontinuance or reduction, except in case of emergency, in which case no notice need be given;
612 Provided, That the United States shall use its best efforts to avoid any discontinuance or
613 reduction in such service. Upon resumption of service after such reduction or discontinuance,
614 and if requested by the Contractor, the United States will, if possible, deliver the quantity of
615 Project Water which would have been delivered hereunder in the absence of such discontinuance
616 or reduction.

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

623 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

634 (c) Omitted.

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

638 (e) By entering into this Contract, the Contractor does not waive any legal
639 rights or remedies it may have to file or participate in any administrative or judicial proceeding
640 contesting (i) the sufficiency of the manner in which any Project M&I Water Shortage Policy
641 adopted after the effective date of this Contract was promulgated; (ii) the substance of such a
642 policy; or (iii) the applicability of such a policy. By agreeing to the foregoing, the Contracting
643 Officer does not waive any legal defenses or remedies that it may then have to assert in such a
644 proceeding.

645 UNAVOIDABLE GROUNDWATER PERCOLATION

646 13. Omitted.

647 RULES, REGULATIONS AND DETERMINATIONS

648 14. The parties agree that the delivery of M&I Water or use of Federal facilities
649 pursuant to this Contract is subject to the applicable provisions of Federal Reclamation law and
650 any applicable rules and regulations promulgated by the Secretary under such law.

651 WATER AND AIR POLLUTION CONTROL

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

656

QUALITY OF WATER

657 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant
658 to this Contract shall be operated and maintained to enable the United States to deliver Project
659 Water to the Contractor in accordance with the water quality standards specified in subsection 2(b)
660 of the Act of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986
661 (100 Stat. 3050), or other existing Federal laws. The United States is under no obligation to
662 construct or furnish water treatment facilities to maintain or to improve the quality of Water
663 Delivered to the Contractor pursuant to this Contract. The United States does not warrant the
664 quality of Water Delivered to the Contractor pursuant to this Contract.

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

672 (c) The Contracting Officer and the Contractor shall communicate,
673 coordinate, and cooperate with each other with respect to the O&M of the Project by the United
674 States in accordance with Articles 11 and 19 of this Contract.

675 WATER ACQUIRED BY THE CONTRACTOR
676 OTHER THAN FROM THE UNITED STATES

677 17. (a) Omitted.

678 (b) Water or water rights now owned or hereafter acquired by the Contractor,
679 other than from the United States may be stored, conveyed, and/or diverted through Project

680 facilities, subject to the completion of appropriate environmental documentation, with the
681 approval of the Contracting Officer and the execution of any contract determined by the
682 Contracting Officer to be necessary, consistent with the following provisions:

683 (1) The Contractor may introduce non-Project water into Project
684 facilities and deliver said water to lands within the Contractor's Service Area, subject to payment
685 to the United States of an appropriate rate as determined by the applicable Project ratesetting
686 policy and the Project use power policy, if such Project use power policy is applicable, each as
687 amended, modified, or superseded from time to time. In addition, if electrical power is required
688 to pump non-Project water through the facilities, the Contractor shall be responsible for
689 obtaining the necessary power and paying the necessary charges therefore.

690 (2) Delivery of such non-Project water in and through Project facilities
691 shall only be allowed to the extent such deliveries do not: (i) interfere with other Project
692 purposes as determined by the Contracting Officer; (ii) reduce the quantity or quality of water
693 available to other Project Contractors; (iii) interfere with the delivery of contractual water
694 entitlements to any other Project Contractors; or (iv) interfere with the physical maintenance of
695 the Project facilities; Provided, that nothing in this Article is intended to preclude the United
696 States from passing the Contractor's water rights water through Project storage facilities to the
697 extent required to satisfy the Contractor's water rights that are senior to those of the Project
698 under the applicable provisions of California water law. Provided further, that the United States
699 has determined that the delivery of non-Project water in and through Project facilities pursuant to
700 Warren Act Contract No. 02-WC-20-2217 between the United States and the Contractor, as it
701 now exists and may be amended, extended, or renewed in the future, satisfies the requirements of
702 this Article.

703 (3) The United States shall not be responsible for control, care, or
704 distribution of the non-Project water before it is introduced into or after it is delivered from the
705 Project facilities. The Contractor hereby releases and agrees to defend and indemnify the United
706 States and their respective officers, agents, and employees, from any claim for damage to
707 persons or property, direct or indirect, resulting from the acts of the Contractor, or its officers,
708 employees, agents or assigns, in (i) extracting or diverting non-Project water from any source, or
709 (ii) diverting such non-Project water into Project facilities.

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

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

718 OPINIONS AND DETERMINATIONS

719 18. (a) Where the terms of this Contract provide for actions to be based upon the
720 opinion or determination of either party to this Contract, said terms shall not be construed as
721 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
722 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
723 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,
724 or unreasonable opinion or determination. Each opinion or determination by either party shall be
725 provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is

726 intended to or shall affect or alter the standard of judicial review applicable under Federal law to
727 any opinion or determination implementing a specific provision of Federal law embodied in
728 statute or regulation.

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

734 COORDINATION AND COOPERATION

735 19. (a) In order to further their mutual goals and objectives, the Contracting
736 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
737 with other affected Project Contractors, in order to improve the operation and management of the
738 Project. The communication, coordination, and cooperation regarding operations and
739 management shall include, but not be limited to, any action which will or may materially affect
740 the quantity or quality of Project Water supply, the allocation of Project Water supply, and
741 Project financial matters including, but not limited to, budget issues. The communication,
742 coordination, and cooperation provided for hereunder shall extend to all provisions of this
743 Contract. Each party shall retain exclusive decision making authority for all actions, opinion,
744 and determinations to be made by the respective party.

745 (b) Within 120 days following the effective date of this Contract, the
746 Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet
747 with interested Project Contractors to develop a mutually agreeable, written Project-wide
748 process, which may be amended as necessary separate and apart from this Contract. The goal of

749 this process shall be to provide, to the extent practicable, the means of mutual communication
750 and interaction regarding significant decisions concerning Project operation and management on
751 a real-time basis.

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

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

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

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

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

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

769 (d) Without limiting the contractual obligations of the Contracting Officer
770 under the other Articles of this Contract, nothing in this Article shall be construed to limit or
771 constrain the Contracting Officer's ability to communicate, coordinate, and cooperate with the

772 Contractor or other interested stakeholders or to make decisions in a timely fashion as needed to
773 protect health, safety, or the physical integrity of structures or facilities.

774 CHARGES FOR DELINQUENT PAYMENTS

775 20. (a) The Contractor shall be subject to interest, administrative and penalty
776 charges on delinquent installments or payments. When a payment is not received by the due
777 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
778 the due date. When a payment becomes 60 days delinquent, the Contractor shall pay an
779 administrative charge to cover additional costs of billing and processing the delinquent payment.
780 When a payment is delinquent 90 days or more, the Contractor shall pay an additional penalty
781 charge of six percent per year for each day the payment is delinquent beyond the due date.
782 Further, the Contractor shall pay any fees incurred for debt collection services associated with a
783 delinquent payment.

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

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

792 EQUAL OPPORTUNITY

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

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

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

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

814 (d) The Contractor will comply with all provisions of Executive Order No.
815 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of
816 the Secretary of Labor.

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

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

829 (g) The Contractor will include the provisions of paragraphs (a) through (g)
830 in every subcontract or purchase order unless exempted by the rules, regulations, or orders of
831 the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that
832 such provisions will be binding upon each subcontractor or vendor. The Contractor will take
833 such action with respect to any subcontract or purchase order as may be directed by the
834 Secretary of Labor as a means of enforcing such provisions, including sanctions for
835 noncompliance: Provided, however, That in the event the Contractor becomes involved in, or
836 is threatened with, litigation with a subcontractor or vendor as a result of such direction, the
837 Contractor may request the United States to enter into such litigation to protect the interests of
838 the United States.

839 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

844 (b) The payment of charges becoming due hereunder is a condition precedent
845 to receiving benefits under this Contract. The United States shall not make water available to the
846 Contractor through Project facilities during any period in which the Contractor may be in arrears

847 in the advance payment of water rates due the United States. The Contractor shall not furnish
848 water made available pursuant to this Contract for lands or parties which are in arrears in the
849 advance payment of water rates levied or established by the Contractor.

850

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

853

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

854 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
855 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
856 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), and any other applicable civil rights
857 laws, as well as with their respective implementing regulations and guidelines imposed by the
858 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

873

PRIVACY ACT COMPLIANCE

874 24. Omitted.

875

CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

876 25. In addition to all other payments to be made by the Contractor pursuant to this
877 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
878 detailed statement submitted by the Contracting Officer to the Contractor for such specific items
879 of direct cost incurred by the United States for work requested by the Contractor associated with

880 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies
881 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed
882 to in writing in advance by the Contractor. This Article shall not apply to costs for routine
883 contract administration.

884 WATER CONSERVATION

885 26. (a) Prior to the delivery of water provided from or conveyed through
886 Federally constructed or Federally-financed facilities pursuant to this Contract, the Contractor
887 shall be implementing an effective water conservation and efficiency program based on the
888 Contractor's water conservation plan that has been determined by the Contracting Officer to
889 meet the conservation and efficiency criteria for evaluating water conservation plans established
890 under Federal law. The water conservation and efficiency program shall contain definite water
891 conservation objectives, appropriate economically feasible water conservation measures, and
892 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
893 Contract shall be contingent upon the Contractor's continued implementation of such water
894 conservation program. In the event the Contractor's water conservation plan or any revised
895 water conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have
896 not yet been determined by the Contracting Officer to meet such criteria, due to circumstances
897 which the Contracting Officer determines are beyond the control of the Contractor, water
898 deliveries shall be made under this Contract so long as the Contractor diligently works with the
899 Contracting Officer to obtain such determination at the earliest practicable date, and thereafter
900 the Contractor immediately begins implementing its water conservation and efficiency program
901 in accordance with the time schedules therein.

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

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

910 (d) At five-year intervals, the Contractor shall revise its water conservation
911 plan to reflect the then-current conservation and efficiency criteria for evaluating water
912 conservation plans established under Federal law and submit such revised water management
913 plan to the Contracting Officer for review and evaluation. The Contracting Officer will then
914 determine if the water conservation plan meets the Bureau of Reclamation's then-current
915 conservation and efficiency criteria for evaluating water conservation plans established under
916 Federal law.

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

919 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

920 27. Except as specifically provided in Article 17 of this Contract, the provisions of
921 this Contract shall not be applicable to or affect non-Project water or water rights now owned or
922 hereafter acquired by the Contractor or any user of such water within the Contractor's Service
923 Area. Any such water shall not be considered Project Water under this Contract. In addition,
924 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or

925 any water user within the Contractor's Service Area acquires or has available under any other
926 contract pursuant to Federal Reclamation law.

927 OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

928 28. Omitted.

929 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

930 29. The expenditure or advance of any money or the performance of any obligation of
931 the United States under this Contract shall be contingent upon appropriation or allotment of
932 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
933 obligations under this Contract. No liability shall accrue to the United States in case funds are
934 not appropriated or allotted.

935 BOOKS, RECORDS, AND REPORTS

936 30. (a) The Contractor shall establish and maintain accounts and other books and
937 records pertaining to administration of the terms and conditions of this Contract, including: the
938 Contractor's financial transactions, water supply data, and Project land and right-of-way
939 agreements; water use data; and other matters that the Contracting Officer may require. Reports
940 thereon shall be furnished to the Contracting Officer in such form and on such date or dates as
941 the Contracting Officer may require. Subject to applicable Federal laws and regulations, each
942 party to this Contract shall have the right during office hours to examine and make copies of the
943 other party's books and records relating to matters covered by this Contract.

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

949 (c) Omitted.

950 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

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

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

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

959 SEVERABILITY

960 32. In the event that a person or entity who is neither (i) a party to a Project contract,
961 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor
962 (iii) an association or other form of organization whose primary function is to represent parties to
963 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
964 enforceability of a provision included in this Contract and said person, entity, association, or
965 organization obtains a final court decision holding that such provision is legally invalid or
966 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
967 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
968 final court decision identify by mutual agreement the provisions in this Contract which must be
969 revised and (ii) within three months thereafter promptly agree on the appropriate revision(s).
970 The time periods specified above may be extended by mutual agreement of the parties. Pending
971 the completion of the actions designated above, to the extent it can do so without violating any
972 applicable provisions of law, the United States shall continue to make the quantities of Project
973 Water specified in this Contract available to the Contractor pursuant to the provisions of this
974 Contract which were not found to be legally invalid or unenforceable in the final court decision.

975

RESOLUTION OF DISPUTES

976

33. Should any dispute arise concerning any provisions of this Contract, or the

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parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to

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resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting

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Officer referring any matter to Department of Justice, the party shall provide to the other party

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30-days' written notice of the intent to take such action; Provided, That such notice shall not be

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required where a delay in commencing an action would prejudice the interests of the party that

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intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer

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shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,

984

nothing herein is intended to waive or abridge any right or remedy that the Contractor or the

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United States may have.

986

OFFICIALS NOT TO BENEFIT

987

34. No Member of or Delegate to Congress, Resident Commissioner, or official of the

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Contractor shall benefit from this Contract other than as a water user or landowner in the same

989

manner as other water users or landowners.

990

CHANGES IN CONTRACTOR'S SERVICE AREA

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35. (a) While this Contract is in effect, no change may be made in the

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Contractor's Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger,

993

or otherwise, except upon the Contracting Officer's written consent.

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(b) Within 30 days of receipt of a request for such a change, the Contracting

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Officer will notify the Contractor of any additional information required by the Contracting

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Officer for processing said request, and both parties will meet to establish a mutually agreeable

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schedule for timely completion of the process. Such process will analyze whether the proposed

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change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;

999 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1000 to pay for any Federally-constructed facilities for which the Contractor is responsible; and
1001 (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition,
1002 the Contracting Officer shall comply with NEPA and ESA. The Contractor will be responsible
1003 for all costs incurred by the Contracting Officer in this process, and such costs will be paid in
1004 accordance with Article 25 of this Contract.

1005 FEDERAL LAWS

1006 36. By entering into this Contract, the Contractor does not waive its rights to contest
1007 the validity or application in connection with the performance of the terms and conditions of this
1008 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1009 the terms and conditions of this Contract unless and until relief from application of such Federal
1010 law or regulation to the implementing provision of the Contract is granted by a court of
1011 competent jurisdiction.

1012 NOTICES

1013 37. Any notice, demand, or request authorized or required by this Contract shall be
1014 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1015 delivered to the Area Manager, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom,
1016 California 95630-1799, and on behalf of the United States, when mailed, postage prepaid, or
1017 delivered to the City Council of the City of Roseville, 2005 Hilltop Circle, Roseville, California
1018 95747. The designation of the addressee or the address may be changed by notice given in the
1019 same manner as provided in this Article for other notices.

1020 CONFIRMATION OF CONTRACT

1021 38. The Contractor, after the execution of this Contract, shall furnish to the
1022 Contracting Officer evidence that pursuant to the laws of the State of California, the Contractor
1023 is a legally constituted entity and the Contract is lawful, valid, and binding on the Contractor.
1024 This Contract shall not be binding on the United States until such evidence has been provided to
1025 the Contracting Officer's satisfaction.

1026

CONTRACT DRAFTING CONSIDERATIONS

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1028
1029
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39. This Contract has been, negotiated and reviewed by the parties hereto, each of whom is sophisticated in the matters to which this Contract pertains. Articles 1 through 39 of the contract have been drafted, negotiated, and reviewed by the parties, and no one party shall be considered to have drafted the stated articles.

1031
1032

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

1033

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

UNITED STATES OF AMERICA

1034
1035
1036

By: *Donna R. Anderson*
Regional Director, Mid-Pacific Region
Bureau of Reclamation

ACTING FOR

1037

CITY OF ROSEVILLE

1038
1039

(SEAL)

By: *[Signature]*
City Manager

1040

Approved as to form

1041
1042

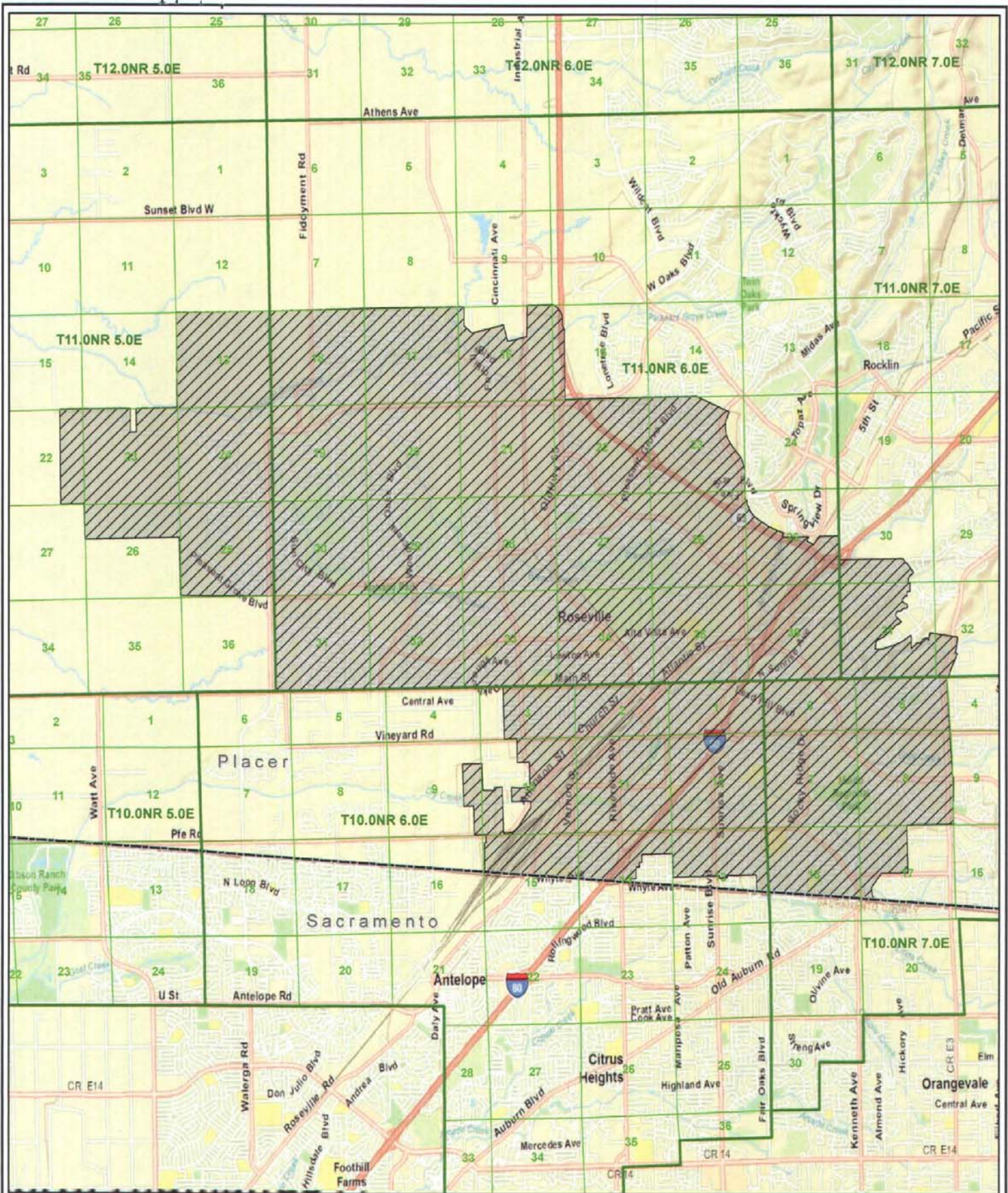
By: *[Signature]*
City Attorney



1043

Attest:

1044
1045

By: *Aronia Chavez*
City Clerk



-  District Boundary
-  Contractor's Service Area

City of Roseville

Exhibit A

Contract No. 14-06-200-3474A-IR1



**CITY OF ROSEVILLE
 2011 Rates and Charges
 (Per Acre-Foot)
 EXHIBIT B**

	M&I Water
COST-OF-SERVICE (COS) RATE	
Capital Component	\$0.56
O&M Component	
Water Marketing	\$3.79
Storage	\$9.01
TOTAL COS RATE¹	\$15.00
CONTRACT RATE¹	\$9.00
CHARGES AND ASSESSMENTS (Payments in Addition to Rates)	
P.L. 102-575 Surcharges (Restoration Fund Payments)²	\$18.59
P.L. 106-377 Assessment (Trinity Public Utilities District)³	\$0.11

EXPLANATORY NOTES

- 1 The contract rate will be updated in the Final Rates schedule
- 2 The surcharges were determined pursuant to Title XXXIV of P.L. 102-575. Restoration Fund
- 3 The Trinity Public Utilities District Assessment is applicable to each acre-foot of water delivered from 3/1/2010-2/28/2011 and is adjusted annually.
- 4 Cost of service rate is the greatest of the CVP minimum rate of \$15.00 per acre-foot, the rate equal to the O&M rate plus deficit rate.

Recent Historic Use, as defined in the CVP M&I Water Shortage Policy, is acre-feet.

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

RESOLUTION NO. 10-422

APPROVING AN INTERIM RENEWAL CONTRACT BY AND BETWEEN THE CITY OF ROSEVILLE AND UNITED STATES DEPARTMENT OF THE INTERIOR BUREAU OF RECLAMATION AND AUTHORIZING THE CITY MANAGER TO EXECUTE IT ON BEHALF OF THE CITY OF ROSEVILLE

WHEREAS, an Interim Renewal Contract providing for project water service from the American River Division, by and between the City of Roseville and United States Department of the Interior Bureau of Reclamation, has been reviewed by the City Council; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Roseville that said agreement is hereby approved and that the City Manager is authorized to execute it on behalf of the City of Roseville.

PASSED AND ADOPTED by the Council of the City of Roseville this 1st day of December, 2010, by the following vote on roll call:

AYES COUNCILMEMBERS: Allard, Gray, Garcia, Roccucci, Garbolino

NOES COUNCILMEMBERS: None

ABSENT COUNCILMEMBERS: None


MAYOR

ATTEST:


City Clerk