

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
AND
ORLAND-ARTOIS WATER DISTRICT
PROVIDING FOR PROJECT WATER SERVICE
FROM THE SACRAMENTO RIVER DIVISION

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Exhibit A - Map of Contractor's Boundaries

Exhibit B - Rates and Charges

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

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES
6 AND
7 ORLAND-ARTOIS WATER DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM THE SACRAMENTO RIVER DIVISION
10

11 THIS CONTRACT, made this 25th day of February, 2005, in
12 pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or
13 supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as
14 amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, July 2,
15 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986
16 (100 Stat. 3050), as amended, and Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all
17 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES
18 OF AMERICA, hereinafter referred to as the United States, and ORLAND-ARTOIS WATER
19 DISTRICT, hereinafter referred to as the Contractor, a public agency of the State of California, duly
20 organized, existing, and acting pursuant to the laws thereof;

21 WITNESSETH, That:

EXPLANATORY RECITALS

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[1st] WHEREAS, the United States has constructed and is operating the Central Valley Project (Project), California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

[2nd] WHEREAS, the United States constructed the Red Bluff Diversion Dam, and the Tehama-Colusa Canal and related delivery facilities including pumping plants, hereinafter collectively referred to as the Canal Facilities, which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

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

[4th] WHEREAS, the Contractor and the United States entered into Contract No. 14-06-200-8382A, Part A of which established terms for the delivery to the Contractor of Project Water from the Canal Facilities from February 13, 1973, through February 28, 1995, and under which the initial date of water delivery to the Contractor was January 1, 1983, and Part A of which contract superseded Contract No. 14-06-200-467A, first entered into on April 19, 1963; and

[5th] WHEREAS, the Contractor and the United States have pursuant to subsection 3404(c)(1) of the Central Valley Project Improvement Act (CVPIA), subsequently entered into interim renewal contract(s) identified as Contract No(s). 14-06-200-8382A-IR1, 14-06-200-8382A-IR2, 14-06-200-8382A-IR3, 14-06-200-8382A-IR4, 14-06-200-8382A-IR5, 14-06-200-8382A-IR6, 14-06-200-8382A-IR7, and 14-06-200-8382A-IR8, the current of which is hereinafter referred to as the Existing Contract, which provided for the continued water service to the Contractor from March 1, 2004, through February 28, 2006; and

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

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

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

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

60 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the
61 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for
62 reasonable and beneficial use and, based upon a needs analysis cooperatively prepared by the
63 Contracting Officer and the Contractor, has demonstrated projected future demand for water use
64 that exceeds the Contract Total to be made available to it pursuant to this Contract; and

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

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

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

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

80 [15th] WHEREAS, the parties intend by this Contract to develop a more cooperative
81 relationship in order to achieve their mutual goals; and

82 [16th] WHEREAS, the United States and the Contractor are willing to enter into this
83 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

86 DEFINITIONS

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

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

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

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

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

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

102 (f) "Contractor's Boundaries" shall mean the area to which the Contractor is
103 permitted to provide Project Water under this Contract as described in Exhibit "A" attached
104 hereto, which may be modified from time to time in accordance with Article 35 of this Contract
105 without amendment of this Contract;

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

108 (h) "Eligible Lands" shall mean all lands to which Irrigation Water may be
109 delivered in accordance with Section 204 of the Reclamation Reform Act of October 12, 1982
110 (96 Stat. 1263), as amended, hereinafter referred to as RRA;

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

114 (j) "Full Cost Rate" shall mean an annual rate, as determined by the
115 Contracting Officer that shall amortize the expenditures for construction properly allocable to the
116 Project irrigation or M&I functions, as appropriate, of facilities in service including all O&M
117 deficits funded, less payments, over such periods as may be required under Federal Reclamation
118 law, or applicable contract provisions. Interest will accrue on both the construction expenditures
119 and funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the
120 date incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated
121 in accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes
122 actual operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules
123 and Regulations for the RRA. The Full Cost Rate used to compute the Tiered Pricing
124 Component defined in subdivision (y) of this Article does not include the costs associated with
125 the Contractor's Irrigation Water distribution works constructed by the United States. However,

126 the Irrigation Full Cost Water Rate defined in subdivision (1) of this Article does include such
127 costs;

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

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

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

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

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

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

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

149 (r) "Operating Non-Federal Entity" shall mean the Tehama-Colusa Canal
150 Authority, its successors or assigns, a non-Federal entity which has the obligation to operate and

151 maintain all or a portion of the Canal Facilities pursuant to an agreement with the United States,
152 and which may have funding obligations with respect thereto;

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

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

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

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

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

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

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

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

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

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

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

183 TERM OF CONTRACT

184 2. (a) This Contract shall be effective March 1, 2005, through February 28,
185 2030, and supersedes the Existing Contract. In the event the Contractor wishes to renew this
186 Contract beyond February 28, 2030, the Contractor shall submit a request for renewal in writing
187 to the Contracting Officer no later than two years prior to the date this Contract expires. The
188 renewal of this Contract insofar as it pertains to the furnishing of Irrigation Water to the
189 Contractor shall be governed by subdivision (b) of this Article, and the renewal of this Contract
190 insofar as it pertains to the furnishing of M&I Water to the Contractor shall be governed by
191 subdivision (c) of this Article.

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

197 (2) The conditions which must be met for this Contract to be renewed
198 are: (i) the Contractor has prepared a water conservation plan that has been determined by the
199 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and
200 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is

201 implementing an effective water conservation and efficiency program based on the Contractor's
202 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is
203 maintaining all water measuring devices and implementing all water measurement methods as
204 approved by the Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor
205 has reasonably and beneficially used the Project Water supplies made available to it and, based
206 on projected demands, is reasonably anticipated and expects to fully utilize for reasonable and
207 beneficial use the quantity of Project Water to be made available to it pursuant to such renewal;
208 (v) the Contractor is complying with all terms and conditions of this Contract; and (vi) the
209 Contractor has the physical and legal ability to deliver Project Water.

210 (3) The terms and conditions of the renewal contract described in
211 subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed
212 consistent with the parties' respective legal rights and obligations, and in consideration of all
213 relevant facts and circumstances, as those circumstances exist at the time of renewal, including,
214 without limitation, the Contractor's need for continued delivery of Project Water; environmental
215 conditions affected by implementation of the Contract to be renewed, and specifically changes in
216 those conditions that occurred during the life of the Contract to be renewed; the Secretary's
217 progress toward achieving the purposes of the CVPIA as set out in Section 3402 and in
218 implementing the specific provisions of the CVPIA; and current and anticipated economic
219 circumstances of the region served by the Contractor.

220 (c) This Contract, insofar as it pertains to the furnishing of M&I Water to the
221 Contractor, shall be renewed for successive periods of up to 40 years each, which periods shall
222 be consistent with then-existing Reclamation-wide policy, under terms and conditions mutually
223 agreeable to the parties and consistent with Federal and State law. The Contractor shall be
224 afforded the opportunity to comment to the Contracting Officer on the proposed adoption and
225 application of any revised policy applicable to the delivery of M&I Water that would limit the

226 term of any subsequent renewal contract with the Contractor for the furnishing of M&I Water to
227 less than 40 years.

228 (d) The Contracting Officer shall make a determination ten years after the
229 date of execution of this Contract, and every five years thereafter during the term of this
230 Contract, of whether a conversion of the relevant portion of this Contract to a contract under
231 subsection 9(d) of the Reclamation Project Act of 1939 can be accomplished pursuant to the Act
232 of July 2, 1956 (70 Stat. 483). The Contracting Officer shall also make a determination ten years
233 after the date of execution of this Contract and every five years thereafter during the term of this
234 contract of whether a conversion of the relevant portion of this Contract to a contract under
235 subsection 9(c)(1) of the Reclamation Project Act of 1939 can be accomplished.

236 Notwithstanding any provision of this Contract, the Contractor reserves and shall have all rights
237 and benefits under the Act of July 2, 1956 (70 Stat. 483). The Contracting Officer anticipates
238 that during the term of this Contract, all authorized Project construction expected to occur will
239 have occurred, and on that basis the Contracting Officer agrees upon such completion to allocate
240 all costs that are properly assignable to the Contractor, and agrees further that, at any time after
241 such allocation is made, and subject to satisfaction of the condition set out in this subdivision,
242 this Contract shall, at the request of the Contractor, be converted to a contract under subsection
243 9(d) or 9(c)(1), whichever is applicable, of the Reclamation Project Act of 1939, subject to
244 applicable Federal law and under stated terms and conditions mutually agreeable to the
245 Contractor and the Contracting Officer. A condition for such conversion to occur shall be a
246 determination by the Contracting Officer that, account being taken of the amount credited to
247 return by the Contractor as provided for under Federal Reclamation law, the remaining amount
248 of construction costs assignable for ultimate return by the Contractor can probably be repaid to
249 the United States within the term of a contract under subsection 9(d) or 9(c)(1), whichever is
250 applicable. If the remaining amount of costs that are properly assignable to the Contractor
251 cannot be determined during the term of this Contract, the Contracting Officer shall notify the

252 Contractor, and provide the reason(s) why such a determination could not be made. Further, the
253 Contracting Officer shall make such a determination as soon thereafter as possible so as to
254 permit, upon request of the Contractor and satisfaction of the condition set out above, conversion
255 to a contract under subsection 9(d) or 9(c)(1), whichever is applicable. In the event such
256 determination of costs has not been made at a time which allows conversion of this Contract
257 during the term of this Contract or the Contractor has not requested conversion of this Contract
258 within such term, the parties shall incorporate in any subsequent renewal contract as described in
259 subdivision (b) of this Article a provision that carries forth in substantially identical terms the
260 provisions of this subdivision.

261 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

262 3. (a) During each Year, consistent with all applicable State water rights,
263 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of
264 this Contract, the Contracting Officer shall make available for delivery to the Contractor
265 53,000 acre-feet of Project Water for irrigation and M&I purposes. Water Delivered to the
266 Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the
267 provisions of Articles 4 and 7 of this Contract.

268 (b) Because the capacity of the Project to deliver Project Water has been
269 constrained in recent years and may be constrained in the future due to many factors including
270 hydrologic conditions and implementation of Federal and State laws, the likelihood of the
271 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this
272 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the
273 PEIS projected that the Contract Total set forth in this Contract will not be available to the
274 Contractor in many years. During the most recent five years, the Recent Historic Average of
275 water made available to the Contractor was 48,760 acre-feet. Nothing in subdivision (b) of this
276 Article shall affect the rights and obligations of the parties under any provision of this Contract.

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

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

295 (e) The Contractor shall comply with requirements applicable to the
296 Contractor in biological opinion(s) prepared as a result of a consultation regarding the execution
297 of this Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA),
298 as amended, that are within the Contractor's legal authority to implement. The Existing
299 Contract, which evidences in excess of 20 years of diversions for irrigation and/or M&I purposes
300 of the quantities of water provided in subdivision (a) of Article 3 of this Contract, will be
301 considered in developing an appropriate baseline for biological assessment(s) prepared pursuant
302 to the ESA, and any other needed environmental review. Nothing herein shall be construed to

303 prevent the Contractor from challenging or seeking judicial relief in a court of competent
304 jurisdiction with respect to any biological opinion or other environmental documentation referred
305 to in this Article.

306 (f) As soon as possible following each declaration of Water Made Available
307 under Article 4 of this Contract, the Contracting Officer will make a determination whether
308 Project Water, or other water available to the Project, can be made available to the Contractor in
309 addition to the Contract Total under Article 3 of this Contract during the Year without adversely
310 impacting other Project Contractors. At the request of the Contractor, the Contracting Officer
311 will consult with the Contractor prior to making such a determination. If the Contracting Officer
312 determines that Project Water, or other water available to the Project, can be made available to
313 the Contractor, the Contracting Officer will announce the availability of such water and shall so
314 notify the Contractor as soon as practical. The Contracting Officer will thereafter meet with the
315 Contractor and other Project Contractors capable of taking such water to determine the most
316 equitable and efficient allocation of such water. If the Contractor requests the delivery of any
317 quantity of such water, the Contracting Officer shall make such water available to the Contractor
318 in accordance with applicable statutes, regulations, guidelines, and policies.

319 (g) The Contractor may request permission to reschedule for use during the
320 subsequent Year some or all of the Water Made Available to the Contractor during the current
321 Year referred to as "carryover." The Contractor may request permission to use during the
322 current Year a quantity of Project Water which may be made available by the United States to
323 the Contractor during the subsequent Year referred to as "preuse." The Contracting Officer's
324 written approval may permit such uses in accordance with applicable statutes, regulations,
325 guidelines, and policies.

326 (h) The Contractor's right pursuant to Federal Reclamation law and applicable
327 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract
328 during the term thereof and any subsequent renewal contracts, as described in Article 2 of this

329 Contract, during the terms thereof shall not be disturbed so long as the Contractor shall fulfill all
330 of its obligations under this Contract and any renewals thereof. Nothing in the preceding
331 sentence shall affect the Contracting Officer's ability to impose shortages under Article 11 or
332 subdivision (b) of Article 12 of this Contract or applicable provisions of any subsequent renewal
333 contracts.

334 (i) Project Water furnished to the Contractor pursuant to this Contract may be
335 delivered for other than irrigation or M&I purposes upon written approval by the Contracting
336 Officer in accordance with the terms and conditions of such approval.

337 (j) The Contracting Officer shall make reasonable efforts to protect the water
338 rights necessary for the Project and to provide the water available under this Contract. The
339 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
340 extent permitted by law, in administrative proceedings related to the Project Water rights;
341 Provided, That the Contracting Officer retains the right to object to the substance of the
342 Contractor's position in such a proceeding; Provided further, That in such proceedings the
343 Contracting Officer shall recognize the Contractor has a legal right under the terms of this
344 Contract to use Project Water.

345 TIME FOR DELIVERY OF WATER

346 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer
347 shall announce the Contracting Officer's expected declaration of the Water Made Available.
348 Such declaration will be expressed in terms of both Water Made Available and the Recent
349 Historic Average and will be updated monthly, and more frequently if necessary, based on then-
350 current operational and hydrologic conditions and a new declaration with changes, if any, to the
351 Water Made Available will be made. The Contracting Officer shall provide forecasts of Project
352 operations and the basis of the estimate, with relevant supporting information, upon the written
353 request of the Contractor. Concurrently with the declaration of the Water Made Available, the
354 Contracting Officer shall provide the Contractor with the updated Recent Historic Average.

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

361 (c) The Contractor shall not schedule Project Water in excess of the quantity
362 of Project Water the Contractor intends to put to reasonable and beneficial use within the
363 Contractor's Boundaries or to sell, transfer, or exchange pursuant to Article 9 of this Contract
364 during any Year.

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

370 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

371 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this
372 Contract shall be delivered to the Contractor at approved turnouts on the Canal Facilities and any
373 additional point or points of delivery either on Project facilities or another location or locations
374 mutually agreed to in writing by the Contracting Officer and the Contractor. The United States
375 shall furnish such power as may be necessary to pump Project Water at the existing Tehama-
376 Colusa Canal side pumping plants and at existing relift stations at heads and elevations sufficient
377 to irrigate by gravity all areas within the Contractor's Boundaries below elevation 325 (MSL).

378 (b) The Contracting Officer, either directly or through its written agreement(s)
379 with the Operating Non-Federal Entity/Entities shall make all reasonable efforts to maintain
380 sufficient flows and levels of water in the Project facilities to deliver Project Water to the

381 Contractor at specific turnouts established pursuant to subdivision (a) of this Article. The parties
382 acknowledge that it may be necessary from time to time to shut down some or all of Project
383 facilities for maintenance or emergencies. Except in the case of emergency, the Contracting
384 Officer shall consult with the Contractor to schedule the shutdown at such times and for such
385 duration as will allow for the work to be accomplished completely and efficiently, and with a
386 minimum of disruption of water service to the Contractor. In this regard, shutdowns will, to the
387 extent reasonably possible, be limited to the months of December and January.

388 (c) The Contractor shall deliver Irrigation Water in accordance with any
389 applicable land classification provisions of Federal Reclamation law and the associated
390 regulations. The Contractor shall not deliver Project Water to land outside the Contractor's
391 Boundaries unless approved in advance by the Contracting Officer.

392 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
393 measured and recorded with equipment furnished, installed, operated, and maintained by the
394 United States or the Operating Non-Federal Entity/Entities at the point or points of delivery
395 established pursuant to subdivision (a) of this Article. Upon the request of either party to this
396 Contract, the Contracting Officer shall investigate, or cause to be investigated by the responsible
397 Operating Non-Federal Entity/Entities, the accuracy of such measurements and shall take any
398 necessary steps to adjust any errors appearing therein. For any period of time when accurate
399 measurements have not been made, the Contracting Officer shall consult with the Contractor and
400 the responsible Operating Non-Federal Entity/Entities prior to making a final determination of
401 the quantity delivered for that period of time.

402 (e) Neither the Contracting Officer nor any Operating Non-Federal
403 Entity/Entities shall be responsible for the control, carriage, handling, use, disposal, or
404 distribution of Water Delivered to the Contractor pursuant to this Contract beyond the delivery
405 points specified in subdivision (a) of this Article. The Contractor shall indemnify the United
406 States, its officers, employees, agents, and assigns on account of damage or claim of damage of

407 any nature whatsoever for which there is legal responsibility, including property damage,
408 personal injury, or death arising out of or connected with the control, carriage, handling, use,
409 disposal, or distribution of such Water Delivered beyond such delivery points, except for any
410 damage or claim arising out of (i) acts or omissions of the Contracting Officer or any of its
411 officers, employees, agents, or assigns, including the Operating Non-Federal Entity/Entities, with
412 the intent of creating the situation resulting in any damage or claim, (ii) willful misconduct of the
413 Contracting Officer or any of its officers, employees, agents, or assigns, including the Operating
414 Non-Federal Entity/Entities, (iii) negligence of the Contracting Officer or any of its officers,
415 employees, agents, or assigns including the Operating Non-Federal Entity/Entities, or (iv)
416 damage or claims resulting from a malfunction of facilities owned and/or operated by the United
417 States or responsible Operating Non-Federal Entity/Entities.

418 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S BOUNDARIES

419 6. (a) The Contractor has established a measuring program satisfactory to the
420 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation
421 purposes within the Contractor's Boundaries is measured at each agricultural turnout and such
422 water delivered for M&I purposes is measured at each M&I service connection. The water
423 measuring devices or water measuring methods of comparable effectiveness must be acceptable
424 to the Contracting Officer. The Contractor shall be responsible for installing, operating, and
425 maintaining and repairing all such measuring devices and implementing all such water
426 measuring methods at no cost to the United States. The Contractor shall use the information
427 obtained from such water measuring devices or water measuring methods to ensure its proper
428 management of the water, to bill water users for water delivered by the Contractor; and, if
429 applicable, to record water delivered for M&I purposes by customer class as defined in the
430 Contractor's water conservation plan provided for in Article 26 of this Contract. Nothing herein
431 contained, however, shall preclude the Contractor from establishing and collecting any charges,
432 assessments, or other revenues authorized by California law. The Contractor shall include a

433 summary of all its annual surface water deliveries in the annual report described in subdivision
434 (c) of Article 26.

435 (b) To the extent the information has not otherwise been provided, upon
436 execution of this Contract, the Contractor shall provide to the Contracting Officer a written
437 report describing the measurement devices or water measuring methods being used or to be used
438 to implement subdivision (a) of this Article and identifying the agricultural turnouts and the M&I
439 service connections or alternative measurement programs approved by the Contracting Officer,
440 at which such measurement devices or water measuring methods are being used, and, if
441 applicable, identifying the locations at which such devices and/or methods are not yet being used
442 including a time schedule for implementation at such locations. The Contracting Officer shall
443 advise the Contractor in writing within 60 days as to the adequacy and necessary modifications,
444 if any, of the measuring devices or water measuring methods identified in the Contractor's report
445 and if the Contracting Officer does not respond in such time, they shall be deemed adequate. If
446 the Contracting Officer notifies the Contractor that the measuring devices or methods are
447 inadequate, the parties shall within 60 days following the Contracting Officer's response,
448 negotiate in good faith the earliest practicable date by which the Contractor shall modify said
449 measuring devices and/or measuring methods as required by the Contracting Officer to ensure
450 compliance with subdivision (a) of this Article.

451 (c) All new surface water delivery systems installed within the Contractor's
452 Boundaries after the effective date of this Contract shall also comply with the measurement
453 provisions described in subdivision (a) of this Article.

454 (d) The Contractor shall inform the Contracting Officer and the State of
455 California in writing by April 30 of each Year of the monthly volume of surface water delivered
456 within the Contractor's Boundaries during the previous Year.

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

460 RATES AND METHOD OF PAYMENT FOR WATER

461 7. (a) The Contractor shall pay the United States as provided in this Article for
462 all Delivered Water at Rates, Charges, and the Tiered Pricing Component established in
463 accordance with (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and
464 the Secretary's then-existing ratesetting policy for M&I Water. Such ratesetting policies shall be
465 amended, modified, or superseded only through a public notice and comment procedure; (ii)
466 applicable Federal Reclamation law and associated rules and regulations, or policies; and (iii)
467 other applicable provisions of this Contract. Payments shall be made by cash transaction,
468 electronic funds transfer, or any other mechanism as may be agreed to in writing by the
469 Contractor and the Contracting Officer. The Rates, Charges, and Tiered Pricing Component
470 applicable to the Contractor upon execution of this Contract are set forth in Exhibit "B," as may
471 be revised annually.

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

474 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
475 provide the Contractor an estimate of the Charges for Project Water that will be applied to the
476 period October 1, of the current Calendar Year, through September 30, of the following Calendar
477 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months
478 to review and comment on such estimates. On or before September 15 of each Calendar Year,
479 the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during
480 the period October 1 of the current Calendar Year, through September 30, of the following
481 Calendar Year, and such notification shall revise Exhibit "B."

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

489 (c) At the time the Contractor submits the initial schedule for the delivery of
490 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the
491 Contractor shall make an advance payment to the United States equal to the total amount payable
492 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water
493 scheduled to be delivered pursuant to this Contract during the first two calendar months of the
494 Year. Before the end of the first month and before the end of each calendar month thereafter, the
495 Contractor shall make an advance payment to the United States, at the Rate(s) set under
496 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract
497 during the second month immediately following. Adjustments between advance payments for
498 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of
499 the following month; Provided, That any revised schedule submitted by the Contractor pursuant
500 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this
501 Contract during any month shall be accompanied with appropriate advance payment, at the Rates
502 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such
503 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to
504 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no
505 additional Project Water shall be delivered to the Contractor unless and until an advance
506 payment at the Rates then in effect for such additional Project Water is made. Final adjustment
507 between the advance payments for the Water Scheduled and payments for the quantities of Water

508 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
509 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried
510 over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last
511 day of February.

512 (d) The Contractor shall also make a payment in addition to the Rate(s) in
513 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
514 appropriate Tiered Pricing Component then in effect, before the end of the month following the
515 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered
516 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be
517 consistent with the quantities of Irrigation Water and M&I Water Delivered as shown in the
518 water delivery report for the subject month prepared by the Operating Non-Federal
519 Entity/Entities or, if there is no Operating Non-Federal Entity/Entities, by the Contracting
520 Officer. The water delivery report shall be deemed a bill for the payment of Charges and the
521 applicable Tiered Pricing Component for Water Delivered. Adjustment for overpayment or
522 underpayment of Charges shall be made through the adjustment of payments due to the United
523 States for Charges for the next month. Any amount to be paid for past due payment of Charges
524 and the Tiered Pricing Component shall be computed pursuant to Article 20 of this Contract.

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

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

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

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

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

552 (j) (1) Beginning at such time as deliveries of Project Water in a Year
553 exceed 80 percent of the Contract Total, then before the end of the month following the month of
554 delivery the Contractor shall make an additional payment to the United States equal to the
555 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water
556 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the
557 Contract total, shall equal one-half of the difference between the Rate established under

558 subdivision (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water
559 Rate, whichever is applicable. The Tiered Pricing Component for the amount of Water delivered
560 which exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate
561 established under subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or
562 M&I Full Cost Water Rate, whichever is applicable. For all Water Delivered pursuant to
563 subdivision (a) of Article 3 of this Contract which is in excess of 80 percent of the Contract
564 Total, this increment shall be deemed to be divided between Irrigation Water and M&I Water in
565 the same proportion as actual deliveries of each bear to the cumulative total Water Delivered.
566 Solely for the purpose of calculating the Tiered Pricing Component, the Full Cost Rate shall not
567 include the interest component of the Contractor's water distribution system constructed by the
568 United States and covered by Repayment Contract No. 14-06-200-8382A entered into pursuant
569 to 43 USC 485h(d).

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

578 (3) For purposes of determining the applicability of the Tiered Pricing
579 Component pursuant to this Article, Water Delivered shall include Project Water that the

580 Contractor transfers to others but shall not include Project Water transferred and delivered to the
581 Contractor, nor shall it include the additional water provided to the Contractor under the
582 provisions of subdivision (f) of Article 3 of this Contract.

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

591 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the
592 CVPIA, the Rates for Project Water transferred by the Contractor shall be the Contractor's Rates
593 adjusted upward or downward to reflect the changed costs, if any, incurred by the Contracting
594 Officer in the delivery of the transferred Project Water to the transferee's point of delivery in
595 accordance with the then applicable Project ratesetting policy. If the Contractor is receiving
596 lower Rates and Charges because of inability to pay and is transferring Project Water to another
597 entity whose Rates and Charges are not adjusted due to inability to pay, the Rates and Charges
598 for transferred Project Water shall not be adjusted to reflect the Contractor's inability to pay.

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

601 (n) With respect to the Rates for M&I Water, the Contractor asserts that it is
602 not legally obligated to repay any Project deficits claimed by the United States to have accrued
603 as of the date of this Contract or deficit-related interest charges thereon. By entering into this
604 Contract, the Contractor does not waive any legal rights or remedies that it may have with
605 respect to such disputed issues. Notwithstanding the execution of this Contract, and payments

606 made hereunder, the Contractor may challenge in the appropriate administrative or judicial
607 forums: (1) the existence, computation, or imposition of any deficit charges accruing during the
608 term of the Existing Contract and any preceding interim renewal contracts, if applicable; (2)
609 interest accruing on any such deficits; (3) the inclusion of any such deficit charges or interest in
610 the Rates; (4) the application by the United States of payments made by the Contractor under its
611 Existing Contract and any preceding interim renewal contracts, if applicable; and (5) the
612 application of such payments in the Rates. The Contracting Officer agrees that the Contractor
613 shall be entitled to the benefit of any administrative or judicial ruling in favor of any Project
614 M&I contractor on any of these issues, and credits for payments heretofore made, Provided, That
615 the basis for such ruling is applicable to the Contractor.

616 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

617 8. The Contractor and the Contracting Officer concur that, as of the effective date of
618 this Contract, the Contractor has no non-interest bearing O&M deficits and shall have no further
619 liability therefor.

620 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

632 (b) In order to facilitate efficient water management by means of water
633 transfers of the type historically carried out among Project Contractors located within the same
634 geographical area and to allow the Contractor to participate in an accelerated water transfer
635 program during the term of this Contract, the Contracting Officer shall prepare, as appropriate,
636 all necessary environmental documentation including, but not limited to, documents prepared
637 pursuant to NEPA and ESA, analyzing annual transfers within such geographical areas and the
638 Contracting Officer shall determine whether such transfers comply with applicable law.
639 Following the completion of the environmental documentation, such transfers addressed in such
640 documentation shall be conducted with advance notice to the Contracting Officer, but shall not
641 require prior written approval by the Contracting Officer. Such environmental documentation
642 and the Contracting Officer's compliance determination shall be reviewed every five years and
643 updated, as necessary, prior to the expiration of the then-existing five-year period. All
644 subsequent environmental documentation shall include an alternative to evaluate not less than the
645 quantity of Project Water historically transferred within the same geographical area.

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

657 (d) For the purpose of determining whether Section 3405(a)(1)(M) of the
658 CVPIA applies to the Contractor as a transferor or transferee of Project Water, the Contracting
659 Officer acknowledges that the Contractor is within a county, watershed, or other area of origin,
660 as those terms are utilized under California law, of water that constitutes the natural flow of the
661 Sacramento River and its tributaries above the confluence of the American and Sacramento
662 Rivers.

663 APPLICATION OF PAYMENTS AND ADJUSTMENTS

664 10. (a) The amount of any overpayment by the Contractor of the Contractor's
665 O&M, capital, and deficit (if any) obligations for the Year shall be applied first to any current
666 liabilities of the Contractor arising out of this Contract then due and payable. Overpayments of
667 more than \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount
668 of such overpayment, at the option of the Contractor, may be credited against amounts to become
669 due to the United States by the Contractor. With respect to overpayment, such refund or
670 adjustment shall constitute the sole remedy of the Contractor or anyone having or claiming to
671 have the right to the use of any of the Project Water supply provided for herein. All credits and
672 refunds of overpayments shall be made within 30 days of the Contracting Officer obtaining
673 direction as to how to credit or refund such overpayment in response to the notice to the
674 Contractor that it has finalized the accounts for the Year in which the overpayment was made.

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

680 TEMPORARY REDUCTIONS--RETURN FLOWS

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

686 (b) The Contracting Officer or Operating Non-Federal Entity/Entities may
687 temporarily discontinue or reduce the quantity of Water Delivered to the Contractor as herein
688 provided for the purposes of investigation, inspection, maintenance, repair, or replacement of any
689 of the Project facilities or any part thereof necessary for the delivery of Project Water to the
690 Contractor, but so far as feasible the Contracting Officer or Operating Non-Federal Entity will
691 give the Contractor due notice in advance of such temporary discontinuance or reduction, except
692 in case of emergency, in which case no notice need be given; Provided, That the United States
693 shall use its best efforts to avoid any discontinuance or reduction in such service. Upon
694 resumption of service after such reduction or discontinuance, and if requested by the Contractor,
695 the United States will, if possible, deliver the quantity of Project Water which would have been
696 delivered hereunder in the absence of such discontinuance or reduction.

697 (c) The United States reserves the right to all seepage and return flow water
698 derived from Water Delivered to the Contractor hereunder which escapes or is discharged
699 beyond the Contractor's Boundaries; Provided, That this shall not be construed as claiming for
700 the United States any right so seepage or return flow being put to reasonable and beneficial use
701 pursuant to this Contract within the Contractor's Boundaries by the Contractor or those claiming
702 by, through, or under the Contractor.

703 CONSTRAINTS ON THE AVAILABILITY OF WATER

704 12. (a) In its operation of the Project, the Contracting Officer will use all
705 reasonable means to guard against a Condition of Shortage in the quantity of water to be made

706 available to the Contractor pursuant to this Contract. In the event the Contracting Officer
707 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
708 Contractor of said determination as soon as practicable.

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

714 (c) In any Year in which there may occur a shortage for any of the reasons
715 specified in subdivision (b) above, the Contracting Officer shall apportion the available Project
716 Water supply among the Contractor and others entitled, under existing contracts and future
717 contracts (to the extent such future contracts are permitted under subsections (a) and (b) of
718 Section 3404 of the CVPIA) and renewals thereof, to receive Project Water consistent with the
719 contractual obligations of the United States.

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

723 UNAVOIDABLE GROUNDWATER PERCOLATION

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

728 RULES AND REGULATIONS

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

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WATER AND AIR POLLUTION CONTROL

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

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QUALITY OF WATER

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

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

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WATER ACQUIRED BY THE CONTRACTOR
OTHER THAN FROM THE UNITED STATES

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17. (a) Water or water rights now owned or hereafter acquired by the Contractor other than from the United States and Irrigation Water furnished pursuant to the terms of this Contract may be simultaneously transported through the same distribution facilities of the Contractor subject to the following: (i) if the facilities utilized for commingling Irrigation Water and non-Project water were constructed without funds made available pursuant to Federal

762 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the
763 Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive
764 Irrigation Water must be established through the certification requirements as specified in the
765 Acreage Limitation Rules and Regulations (43 CFR Part 426); (iii) the water requirements of
766 Eligible Lands within the Contractor's Boundaries can be established and the quantity of
767 Irrigation Water to be utilized is less than or equal to the quantity necessary to irrigate such
768 Eligible Lands; and (iv) if the facilities utilized for commingling Irrigation Water and non-
769 Project water are/were constructed with funds made available pursuant to Federal Reclamation
770 law, the non-Project water will be subject to the acreage limitation provisions of Federal
771 Reclamation law, unless the Contractor pays to the United States the incremental fee described in
772 43 CFR 426.15. In determining the incremental fee, the Contracting Officer will calculate
773 annually the cost to the Federal Government, including interest, on storing or delivering non-
774 Project water, which for purposes of this Contract shall be determined as follows: The quotient
775 shall be the unpaid distribution system costs divided by the total irrigable acreage within the
776 Contractor's Boundaries. The incremental fee per acre is the mathematical result of such
777 quotient times the interest rate determined using Section 202 (3) of the Act of October 12, 1982
778 (96 Stat. 1263). Such incremental fee will be charged to each acre of excess or full cost land
779 within the Contractor's Boundaries that receives non-Project water through Federally financed or
780 constructed facilities. The incremental fee calculation methodology will continue during the
781 term of this Contract absent the promulgation of a contrary Reclamation-wide rule, regulation, or
782 policy adopted after the Contractor has been afforded the opportunity to review and comment on
783 the proposed rule, regulation, or policy. If such rule, regulation, or policy is adopted it shall
784 supersede this provision.

785 (b) Water or water rights now owned or hereafter acquired by the Contractor,
786 other than from the United States, may be stored, conveyed, and/or diverted through Project
787 facilities, subject to the completion of appropriate environmental documentation, with the

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

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

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

802 (3) Neither the United States nor the Operating Non-Federal Entity
803 shall be responsible for control, care, or distribution of the non-Project water before it is
804 introduced into or after it is delivered from the Project facilities. The Contractor hereby releases
805 and agrees to defend and indemnify the United States and the Operating Non-Federal Entity, and
806 their respective officers, agents, and employees, from any claim for damage to persons or
807 property, direct or indirect, resulting from the acts of the Contractor, its officers', employees',
808 agents', or assigns', act(s) in (i) extracting or diverting non-Project water from any source, or (ii)
809 diverting such non-Project water into Project facilities.

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

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

818 OPINIONS AND DETERMINATIONS

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

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

834 COORDINATION AND COOPERATION

835 19. (a) In order to further their mutual goals and objectives, the Contracting
836 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and
837 with other affected Project Contractors, in order to improve the operation and management of the
838 Project. The communication, coordination, and cooperation regarding operations and

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

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

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

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

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

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

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

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

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

874 CHARGES FOR DELINQUENT PAYMENTS

875 20. (a) The Contractor shall be subject to interest, administrative and penalty
876 charges on delinquent installments or payments. When a payment is not received by the due
877 date, the Contractor shall pay an interest charge for each day the payment is delinquent beyond
878 the due date. When a payment becomes sixty (60) days delinquent, the Contractor shall pay an
879 administrative charge to cover additional costs of billing and processing the delinquent payment.
880 When a payment is delinquent ninety (90) days or more, the Contractor shall pay an additional
881 penalty charge of six (6%) percent per year for each day the payment is delinquent beyond the
882 due date. Further, the Contractor shall pay any fees incurred for debt collection services
883 associated with a delinquent payment.

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

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

892 EQUAL OPPORTUNITY

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

894 (a) The Contractor will not discriminate against any employee or applicant for
895 employment because of race, color, religion, sex, or national origin. The Contractor will take

896 affirmative action to ensure that applicants are employed, and that employees are treated during
897 employment, without regard to their race, color, religion, sex, or national origin. Such action
898 shall include, but not be limited to, the following: Employment, upgrading, demotion, or
899 transfer; recruitment or recruitment advertising; layoff or termination, rates of payment or other
900 forms of compensation; and selection for training, including apprenticeship. The Contractor
901 agrees to post in conspicuous places, available to employees and applicants for employment,
902 notices to be provided by the Contracting Officer setting forth the provisions of this
903 nondiscrimination clause.

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

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

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

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

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

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

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

938 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

951 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

952 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964
953 (42 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the
954 Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights
955 laws, as well as with their respective implementing regulations and guidelines imposed by the
956 U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

971

PRIVACY ACT COMPLIANCE

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

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

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

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

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

997 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

998 25. In addition to all other payments to be made by the Contractor pursuant to this
999 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
1000 detailed statement submitted by the Contracting Officer to the Contractor for such specific items
1001 of direct cost incurred by the United States for work requested by the Contractor associated with
1002 this Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies
1003 and procedures. All such amounts referred to in this Article shall not exceed the amount agreed

1004 to in writing in advance by the Contractor. This Article shall not apply to costs for routine
1005 contract administration.

1006 WATER CONSERVATION

1007 26. (a) Prior to the delivery of water provided from or conveyed through
1008 Federally constructed or Federally financed facilities pursuant to this Contract, the Contractor
1009 shall be implementing an effective water conservation and efficiency program based on the
1010 Contractor's water conservation plan that has been determined by the Contracting Officer to meet
1011 the conservation and efficiency criteria for evaluating water conservation plans established under
1012 Federal law. The water conservation and efficiency program shall contain definite water
1013 conservation objectives, appropriate economically feasible water conservation measures, and
1014 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this
1015 Contract shall be contingent upon the Contractor's continued implementation of such water
1016 conservation program. In the event the Contractor's water conservation plan or any revised water
1017 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not
1018 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which
1019 the Contracting Officer determines are beyond the control of the Contractor, water deliveries
1020 shall be made under this Contract so long as the Contractor diligently works with the Contracting
1021 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor
1022 immediately begins implementing its water conservation and efficiency program in accordance
1023 with the time schedules therein.

1024 (b) Should the amount of M&I Water delivered pursuant to subdivision (a) of
1025 Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall
1026 implement the Best Management Practices identified by the time frames issued by the California
1027 Urban Water Conservation Council for such M&I Water unless any such practice is determined
1028 by the Contracting Officer to be inappropriate for the Contractor.

1029 (c) The Contractor shall submit to the Contracting Officer a report on the
1030 status of its implementation of the water conservation plan on the reporting dates specified in the
1031 then existing conservation and efficiency criteria established under Federal law.

1032 (d) At five-year intervals, the Contractor shall revise its water conservation
1033 plan to reflect the then current conservation and efficiency criteria for evaluating water
1034 conservation plans established under Federal law and submit such revised water management
1035 plan to the Contracting Officer for review and evaluation. The Contracting Officer will then
1036 determine if the water conservation plan meets Reclamation's then current conservation and
1037 efficiency criteria for evaluating water conservation plans established under Federal law.

1038 (e) If the Contractor is engaged in direct groundwater recharge, such activity
1039 shall be described in the Contractor's water conservation plan.

1040 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1041 27. Except as specifically provided in Article 17 of this Contract, the provisions of
1042 this Contract shall not be applicable to or affect non-Project water or water rights now owned or
1043 hereafter acquired by the Contractor or any user of such water within the Contractor's
1044 Boundaries. Any such water shall not be considered Project Water under this Contract. In
1045 addition, this Contract shall not be construed as limiting or curtailing any rights which the
1046 Contractor or any water user within the Contractor's Boundaries acquires or has available under
1047 any other contract pursuant to Federal Reclamation law.

1048 OPERATION AND MAINTENANCE BY OPERATING NON-FEDERAL ENTITY

1049 28. (a) The O&M of a portion of the Project facilities which serve the Contractor,
1050 and responsibility for funding a portion of the costs of such O&M, have been transferred to the
1051 Operating Non-Federal Entity by separate agreement between the United States and the
1052 Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the
1053 rights or obligations of the Contractor or the United States hereunder.

1054 (b) The Contracting Officer has previously notified the Contractor in writing
1055 that the O&M of a portion of the Project facilities which serve the Contractor has been
1056 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly
1057 to the Operating Non-Federal Entity, or to any successor approved by the Contracting Officer
1058 under the terms and conditions of the separate agreement between the United States and the
1059 Operating Non-Federal Entity described in subdivision (a) of this Article, all rates, charges, or
1060 assessments of any kind, including any assessment for reserve funds, which the Operating Non-
1061 Federal Entity or such successor determines, sets, or establishes for the O&M of the portion of
1062 the Project facilities operated and maintained by the Operating Non-Federal Entity or such
1063 successor. Such direct payments to the Operating Non-Federal Entity or such successor shall not
1064 relieve the Contractor of its obligation to pay directly to the United States the Contractor's share
1065 of the Project Rates, Charges, and Tiered Pricing Components except to the extent the Operating
1066 Non-Federal Entity collects payments on behalf of the United States in accordance with the
1067 separate agreement identified in subdivision (a) of this Article.

1068 (c) For so long as the O&M of any portion of the Project facilities serving the
1069 Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1070 Contracting Officer shall adjust those components of the Rates for Water Delivered under this
1071 Contract representing the cost associated with the activity being performed by the Operating
1072 Non-Federal Entity or its successor.

1073 (d) In the event the O&M of the Project facilities operated and maintained by
1074 the Operating Non-Federal Entity is reassumed by the United States during the term of this
1075 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the
1076 Contractor a revised Exhibit "B" which shall include the portion of the Rates to be paid by the
1077 Contractor for Project Water under this Contract representing the O&M costs of the portion of
1078 such Project facilities which have been reassumed. The Contractor shall, thereafter, in the
1079 absence of written notification from the Contracting Officer to the contrary, pay the Rates,

1080 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the
1081 United States in compliance with Article 7 of this Contract.

1082 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1083 29. The expenditure or advance of any money or the performance of any obligation of
1084 the United States under this Contract shall be contingent upon appropriation or allotment of
1085 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any
1086 obligations under this Contract. No liability shall accrue to the United States in case funds are
1087 not appropriated or allotted.

1088 BOOKS, RECORDS, AND REPORTS

1089 30. (a) The Contractor shall establish and maintain accounts and other books and
1090 records pertaining to administration of the terms and conditions of this Contract, including: the
1091 Contractor's financial transactions, water supply data, and Project land and right-of-way
1092 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use
1093 data; and other matters that the Contracting Officer may require. Reports thereon shall be
1094 furnished to the Contracting Officer in such form and on such date or dates as the Contracting
1095 Officer may require. Subject to applicable Federal laws and regulations, each party to this
1096 Contract shall have the right during office hours to examine and make copies of the other party's
1097 books and records relating to matters covered by this Contract.

1098 (b) Notwithstanding the provisions of subdivision (a) of this Article, no
1099 books, records, or other information shall be requested from the Contractor by the Contracting
1100 Officer unless such books, records, or information are reasonably related to the administration or
1101 performance of this Contract. Any such request shall allow the Contractor a reasonable period of
1102 time within which to provide the requested books, records, or information.

1103 (c) At such time as the Contractor provides information to the Contracting
1104 Officer pursuant to subdivision (a) of this Article, a copy of such information shall be provided
1105 to the Operating Non-Federal Entity.

1106 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1107 31. (a) The provisions of this Contract shall apply to and bind the successors and
1108 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
1109 therein shall be valid until approved in writing by the Contracting Officer.

1110 (b) The assignment of any right or interest in this Contract by either party
1111 shall not interfere with the rights or obligations of the other party to this Contract absent the
1112 written concurrence of said other party.

1113 (c) The Contracting Officer shall not unreasonably condition or withhold his
1114 approval of any proposed assignment.

1115 SEVERABILITY

1116 32. In the event that a person or entity who is neither (i) a party to a Project contract,
1117 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)
1118 an association or other form of organization whose primary function is to represent parties to
1119 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or
1120 enforceability of a provision included in this Contract and said person, entity, association, or
1121 organization obtains a final court decision holding that such provision is legally invalid or
1122 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),
1123 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such
1124 final court decision identify by mutual agreement the provisions in this Contract which must be
1125 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).
1126 The time periods specified above may be extended by mutual agreement of the parties. Pending
1127 the completion of the actions designated above, to the extent it can do so without violating any
1128 applicable provisions of law, the United States shall continue to make the quantities of Project
1129 Water specified in this Contract available to the Contractor pursuant to the provisions of this
1130 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1131 RESOLUTION OF DISPUTES

1132 33. Should any dispute arise concerning any provisions of this Contract, or the
1133 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to
1134 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting
1135 Officer referring any matter to Department of Justice, the party shall provide to the other party

1136 30 days' written notice of the intent to take such action; Provided, That such notice shall not be
1137 required where a delay in commencing an action would prejudice the interests of the party that
1138 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer
1139 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,
1140 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the
1141 United States may have.

1142 OFFICIALS NOT TO BENEFIT

1143 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1144 Contractor shall benefit from this Contract other than as a water user or landowner in the same
1145 manner as other water users or landowners.

1146 CHANGES IN CONTRACTOR'S BOUNDARIES

1147 35. (a) While this Contract is in effect, no change may be made in the
1148 Contractor's Boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger,
1149 or otherwise, except upon the Contracting Officer's written consent.

1150 (b) Within 30 days of receipt of a request for such a change, the Contracting
1151 Officer will notify the Contractor of any additional information required by the Contracting
1152 Officer for processing said request, and both parties will meet to establish a mutually agreeable
1153 schedule for timely completion of the process. Such process will analyze whether the proposed
1154 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;
1155 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or
1156 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)
1157 have an impact on any Project Water rights applications, permits, or licenses. In addition, the
1158 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be
1159 responsible for all costs incurred by the Contracting Officer in this process, and such costs will
1160 be paid in accordance with Article 25 of this Contract.

1161 FEDERAL LAWS

1162 36. By entering into this Contract, the Contractor does not waive its rights to contest
1163 the validity or application in connection with the performance of the terms and conditions of this

1164 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with
1165 the terms and conditions of this Contract unless and until relief from application of such Federal
1166 law or regulation to the implementing provision of the Contract is granted by a court of
1167 competent jurisdiction.

1168 NOTICES

1169 37. Any notice, demand, or request authorized or required by this Contract shall be
1170 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or
1171 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office, 16349
1172 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the United States, when
1173 mailed, postage prepaid, or delivered to the Board of Directors of the Orland-Artois Water
1174 District, P. O. Box 218, 6505 County Road 27, Orland, California 95963. The designation of
1175 the addressee or the address may be changed by notice given in the same manner as provided in
1176 this Article for other notices.

1177 CONFIRMATION OF CONTRACT

1178 38. The Contractor, after the execution of this Contract, shall promptly seek to secure
1179 a decree of a court of competent jurisdiction of the State of California, confirming the execution
1180 of this Contract. The Contractor shall furnish the United States a certified copy of the final
1181 decree, the validation proceedings, and all pertinent supporting records of the court approving
1182 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on
1183 the Contractor.

1184 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of
1185 the day and year first above written.

1186 THE UNITED STATES OF AMERICA

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

1187
1188
1189

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

1190 (SEAL)

1191 ORLAND-ARTOIS WATER DISTRICT

1192
1193

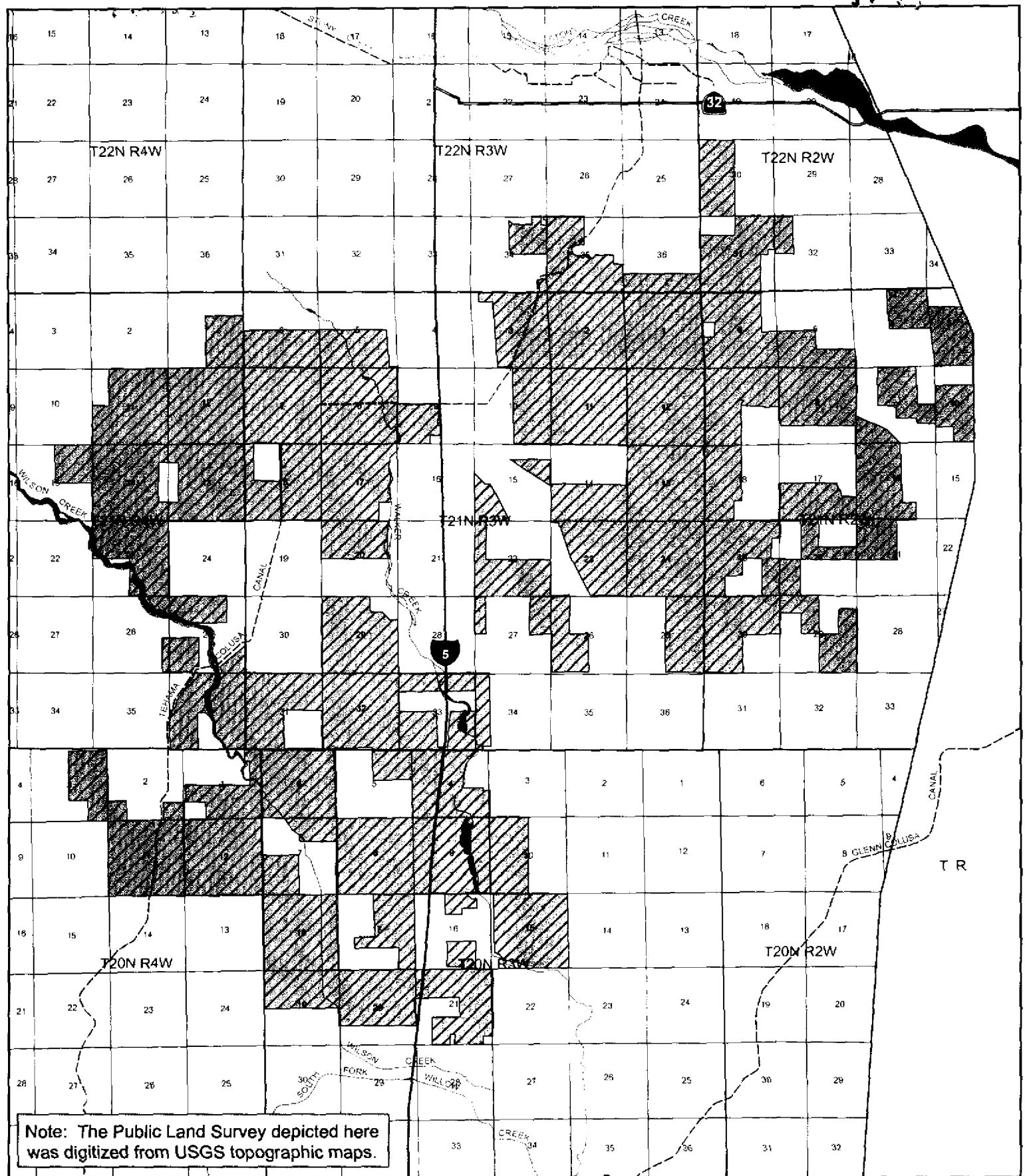
By: *[Signature]*
President of the Board of Directors

1194 Attest:

1195
1196

By: *[Signature]*
Secretary of the Board of Directors



1197 (H:\public\Willows Final LTRC's\2005-01-31 Orland-Artois WD Final LTRC Draft
1198 Contract.doc)



Orland-Artois Water District

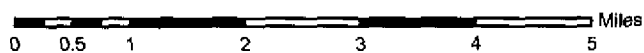
Contract No. 14-06-200-8382A-LTR1

Exhibit A

-  Contractor's Service Area
-  District Boundary



Date: October 19, 2004
 File Name: N:\districts\contracts\orland_artois\orland_artois_itr.mxd



602-202-8

EXHIBIT B

ORLAND-ARTOIS WATER DISTRICT
2005 Water Rates and Charges per Acre-Foot

	<u>Cost of Service</u>		<u>Calculated</u>
	<u>Irrigation</u>	<u>M&I</u>	<u>Payment Capacity 1/ Irrigation</u>
<u>COST OF SERVICE RATES:</u>			
Capital Rates	\$11.83	2/	\$ 0.00
O&M Rates:			
Water Marketing	6.61		6.61
Storage	5.93		5.93
Direct Pumping	1.17		1.17
Deficit Rates:			
Interest Bearing	0.00		0.00
CFO/PFR Adjustment Rate 3/	<u>1.82</u>		<u>1.82</u>
TOTAL	<u>\$27.36</u>	2/	<u>\$15.53</u>
<u>FULL-COST RATES:</u>			
<u>Section 202(3)</u> Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.	<u>\$103.56</u>		<u>\$103.56</u>
<u>Section 205(a)(3)</u> Rate is applicable to a Limited Recipient that did <u>not</u> receive irrigation water on or before October 1, 1981.	<u>\$113.73</u>		<u>\$113.73</u>
<u>TIERED PRICING COMPONENTS:</u>			
Tiered Pricing Component >80% <=90% of Contract			
Total [Full Cost Rate – COS Rate / 2]	<u>\$ 9.78</u>	2/	<u>\$15.70</u>
Tiered Pricing Component >90% of Contract			
Total [Full Cost Rate – COS Rate]	<u>\$19.56</u>	2/	<u>\$31.39</u>
<u>CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 4/</u>			
Restoration Payments (3407(d)(2)(A))	<u>\$ 7.93</u>	2/	<u>\$ 0.00</u>

1/ Established pursuant to the results of the Payment Capacity Analysis for the Tehama-Colusa Water Users Association Service Area as announced by letter dated February 10, 1995.

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

3/ Chief Financial Officer (CFO) adjustment and Provision for Replacement (PFR) expense is being distributed over a 5-year period beginning in FY 2003 for those contractors that requested those costs be deferred.

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

**BOARD OF DIRECTORS
ORLAND-ARTOIS WATER DISTRICT
RESOLUTION NO. 2004- 4
RESOLUTION APPROVING LONG-TERM RENEWAL CONTRACT
FOR WATER SERVICE BETWEEN THE UNITED STATES AND
ORLAND-ARTOIS WATER DISTRICT AND APPROVING NOTICE OF EXEMPTION
UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT**

AS A BASIS AND PREMISE for this Resolution, the Board of Directors of ORLAND-ARTOIS WATER DISTRICT finds and states as follows:

1. On April 19, 1963 Orland-Artois Water District ("District") and the United States of America entered into a contract providing for water service, designated Contract No. 14-06-200-8382A ("Original Contract").
2. Water service under the Original Contract began in 1978, and has continued uninterrupted since then.
3. The Original Contract expired on February 28, 1995.
4. In advance of the expiration of the Original Contract, the District and the United States negotiated an Interim Renewal Contract ("IRC"), in accordance with the Central Valley Project Improvement Act, pending completion of a Programmatic Environmental Impact Statement ("PEIS").
5. Upon completion of the PEIS, the United States announced its intent to negotiate a long-term renewal of the Original Contract.
6. The District and the United States engaged in a series of negotiations commencing in 1999 and completed on April 28, 2004. A copy of the proposed Long-Term Renewal Contract, designated Contract No. 14-06-200-8382-A-LTR1 is attached hereto and incorporated herein by this reference as Exhibit "A".
7. The form of Long-Term Renewal Contract attached hereto reflects the

results of the negotiations and contains the terms and conditions that the District and the United States have tentatively agreed upon.

8. Prior to execution of the Long-Term Renewal Contract, the United States must publish the proposed contract for a 60-day public review, complete analysis of renewal of the contract under the National Environmental Policy Act and complete consultations with other federal agencies under the federal Endangered Species Act.

9. The parties intend that the Long-Term Renewal Contract will be ready for execution no later than March 1, 2005, and will be effective as of that date.

10. Prior to execution of the Long-Term Renewal Contract, the District must analyze the action under the California Environmental Quality Act ("CEQA"). The District has previously analyzed its interim renewals of the Original Contract under CEQA, and has found them to be exempt. The District believes that its execution of the Long-Term Renewal Contract is similarly exempt, for the reasons set forth in the Notice of Exemption attached hereto and incorporated herein by this reference as Exhibit "B".

NOW, THEREFORE, be it RESOLVED, ADJUDGED and ORDAINED that:

1. ORLAND-ARTOIS WATER DISTRICT approves the *Long-Term Renewal Contract Between the United States and Orland-Artois Water District Providing for Project Water Service from the Sacramento River Division, Contract No. 14-06-200-8382-A-LTR1*.

2. Once the 60-day public review period and the United States' environmental review and ESA consultations are completed, if the United States presents the District with a Long-Term Renewal Contract that is in substantially the same form as that

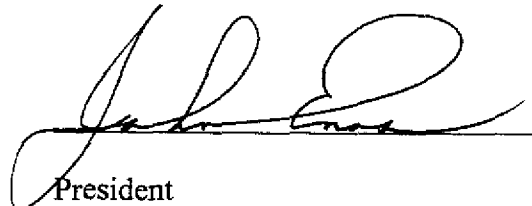
attached hereto as Exhibit A, then the District's officers are authorized to execute that Long-Term Renewal Contract, without further action of this Board.

3. The Secretary shall prepare and file a Notice of Exemption under CEQA in the form attached hereto as Exhibit B with the Glenn County Clerk as soon as possible. In accordance with this finding of exemption, no fee is due under California Fish and Game Code Section 711.4.

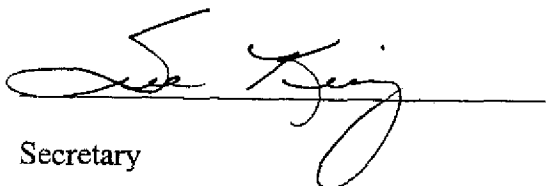
4. The District's officers, staff and consultants are authorized and directed to do all things necessary and appropriate to carry out this Resolution and to ensure continued and uninterrupted water service to the District under its water service contract.

PASSED AND ADOPTED at a special meeting on May 21, 2004 of the Board of Directors by the following vote:

AYES: Enos, Pieper, Ureschagin
NOES: Devine, McDaniel
ABSENT: None


President

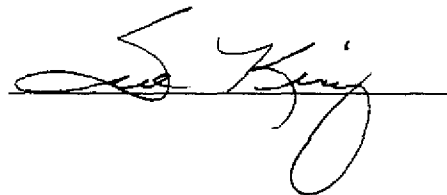
ATTEST:


Secretary

CERTIFICATION

I, Sue King, the duly and regularly appointed Secretary of the ORLAND-ARTOIS WATER DISTRICT, hereby certify that the foregoing is a true, correct and exact copy of a Resolution of the Board of Directors of ORLAND-ARTOIS WATER DISTRICT, duly and regularly passed and adopted at a meeting of the said Board of Directors at Orland, California, on May 21, 2004, the original of which is on file in my office and duly and regularly entered in the official records of proceedings of the Board of Directors of ORLAND-ARTOIS WATER DISTRICT.

Dated: May 21, 2004

A handwritten signature in cursive script, appearing to read "Sue King", is written over a horizontal line.

Secretary