

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

LONG-TERM RENEWAL CONTRACT BETWEEN THE UNITED STATES  
AND  
BELLA VISTA WATER DISTRICT  
PROVIDING FOR PROJECT WATER SERVICE  
FROM TRINITY RIVER DIVISION

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

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

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

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

28 [2<sup>nd</sup>] WHEREAS, the United States constructed the Cow Creek Unit facilities, which will  
29 be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract;  
30 and

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

33 [4<sup>th</sup>] WHEREAS, the Contractor and the United States entered into Contract  
34 No. 14-06-200-851A, dated April 3, 1964, as amended by a letter agreement from the Bureau of  
35 Reclamation to the Contractor dated December 14, 1971, which letter agreement was accepted and  
36 countersigned by the Contractor on December 28, 1971, which contract and letter agreement  
37 established terms for the delivery to the Contractor of Project Water from the Cow Creek Unit from  
38 April 3, 1964, through December 31, 1994; and

39 [5<sup>th</sup>] WHEREAS, pursuant to subsection 3404(c)(1) of the Central Valley Project  
40 Improvement Act (CVPIA), the Contractor and the United States have, beginning on December 28,  
41 1994, entered into successive interim renewal contract(s) identified as Contract No(s). 14-06-200-  
42 851A-IR1, 14-06-200-851A-IR2, 14-06-200-851A-IR3, 14-06-200-851A-IR4, 14-06-200-851A-  
43 IR5, 14-06-200-851A-IR6, 14-06-200-851A-IR7, 14-06-200-851A-IR8, and 14-06-200-851A-IR9,  
44 which individually and successively amended and replaced the water service component, Part A, of  
45 Contract No. 14-06-200-851A, the current form of which is hereinafter referred to as the “Existing  
46 Contract,” providing for continued water service to the Contractor from March 1, 2004, through  
47 February 28, 2006; and

48 [5.1] WHEREAS, the United States and the Shasta County Water Agency entered into  
49 Contract No. 14-06-200-3367A which established terms for the delivery to the Shasta County Water  
50 Agency of Central Valley Project Water from Project facilities; and

51 [5.2] WHEREAS, the Shasta County Water Agency and the Contractor entered into a  
52 partial assignment on \_\_\_\_\_, identified as Contract No. 14-06-200-3367Y, to permanently

53 assign to the Contractor 578 acre-feet of the Central Valley Project Water made available to the  
54 Shasta County Water Agency pursuant to Contract No. 14-06-200-3367A; and

55 [5.3] WHEREAS, the Contractor desires to merge the Existing Contract and Contract  
56 No. 14-06-200-3367Y into a single contract identified as Contract No. 14-06-200-851A-LTR1; and

57 [6<sup>th</sup>] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of the  
58 Existing Contract following completion of appropriate environmental documentation, including a  
59 programmatic environmental impact statement (PEIS) pursuant to the National Environmental  
60 Policy Act (NEPA), analyzing the direct and indirect impacts and benefits of implementing the  
61 CVPIA and the potential renewal of all existing contracts for Project Water; and

62 [7<sup>th</sup>] WHEREAS, the United States has completed the PEIS and all other appropriate  
63 environmental review necessary to provide for long-term renewal of the Existing Contract; and

64 [8<sup>th</sup>] WHEREAS, the Contractor has requested the long-term renewal of the Existing  
65 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of  
66 the State of California, for water service from the Project; and

67 [9<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all of  
68 its obligations, including its responsibility to ascertain whether Project Water delivered by it is put  
69 to use as Irrigation Water or M&I Water, under the Existing Contract; and

70 [10<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting  
71 Officer that the Contractor has utilized the Project Water supplies available to it for reasonable and  
72 beneficial use and, based upon a needs analysis cooperatively prepared by the Contracting Officer  
73 and the Contractor, has demonstrated projected future demand for water use that exceeds the  
74 Contract Total to be made available to it pursuant to this Contract; and

75 [11<sup>th</sup>] WHEREAS, water obtained from the Project has been relied upon by urban and  
76 agricultural areas within California for more than 50 years, and is considered by the Contractor as  
77 an essential portion of its water supply; and

78 [12<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the Contractor's,  
79 depend upon the continued availability of water, including water service from the Project; and

80 [12.1] WHEREAS, Contractor has made and will continue to make substantial capital  
81 investments in diversion and treatment facilities, and requires a consistent, predictable quality of  
82 raw water in order to meet Safe Drinking Water Act requirements for its municipal customers, and  
83 to provide a consistent and predictable quality of water for its industrial customers; and

84 [13<sup>th</sup>] WHEREAS, the Secretary intends through coordination, cooperation, and  
85 partnerships to pursue measures to improve water supply, water quality, and reliability of the  
86 Project for all Project purposes; and

87 [13.1] WHEREAS, the Contractor is located in the region of the Redding Groundwater  
88 Basin, and it is the desire of both the United States and the Contractor to facilitate the cooperative  
89 efforts of local water service agencies to develop the Redding Groundwater Basin for conjunctive  
90 management and use with Project Water supplies, to maximize the reasonable beneficial use of  
91 water for the water service agencies and their customers in the region; and

92 [14<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
93 provide for reliable Project Water supplies; to control costs of those supplies; to achieve repayment  
94 of the Project as required by law; to guard reasonably against Project Water shortages; to achieve a  
95 reasonable balance among competing demands for use of Project Water; and to comply with all  
96 applicable environmental statutes, all consistent with the legal obligations of the United States  
97 relative to the Project; and

98 [15<sup>th</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative  
99 relationship in order to achieve their mutual goals; and

100 [16<sup>th</sup>] WHEREAS, the United States and the Contractor are willing to enter into this  
101 Contract pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

104 DEFINITIONS

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

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

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

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

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

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

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

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

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

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

132 (j) "Full Cost Rate" shall mean an annual rate as determined by the Contracting  
133 Officer that shall amortize the expenditures for construction properly allocable to the Project

134 irrigation or M&I functions, as appropriate, of facilities in service including all O&M deficits  
135 funded, less payments, over such periods as may be required under Federal Reclamation law, or  
136 applicable contract provisions. Interest will accrue on both the construction expenditures and  
137 funded O&M deficits from October 12, 1982, on costs outstanding at that date, or from the date  
138 incurred in the case of costs arising subsequent to October 12, 1982, and shall be calculated in  
139 accordance with subsections 202(3)(B) and (3)(C) of the RRA. The Full Cost Rate includes actual  
140 operation, maintenance, and replacement costs consistent with Section 426.2 of the Rules and  
141 Regulations for the RRA. The costs associated with the Contractor's irrigation water distribution  
142 works constructed by the United States are separately covered by a repayment contract, Contract  
143 No. 14-06-200-851A, Part B, entered into pursuant to 43 USC 485h(d);

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

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

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

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

153 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water, other  
154 than Irrigation Water, made available to the Contractor. M&I Water shall include water used for  
155 human use and purposes such as the watering of landscaping or pasture for animals (e.g., horses)  
156 which are kept for personal enjoyment or water delivered to landholdings operated in units of less  
157 than five acres unless the Contractor establishes to the reasonable satisfaction of the Contracting  
158 Officer that the use of water delivered to any such landholding is a use described in subdivision (m)  
159 of this Article. The determination of whether Project Water is used as Irrigation Water or M&I  
160 Water shall be in accordance with the guidelines set forth in Exhibit "C" attached hereto, which



161 guidelines may be modified by mutual agreement of the parties to this Contract without amending  
162 the Contract: Provided, That if during the term of this Contract, a Reclamation-wide rule or  
163 regulation is promulgated that defines M&I Water or Irrigation Water or if Congress should enact a  
164 law which defines M&I Water or Irrigation Water, such rule, regulation, or law shall supersede this  
165 Article 1(o);

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

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

171 (r) Omitted;

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

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

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

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

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

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

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

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

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

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

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

200 (dd) "Distribution System" shall mean the general distribution and lateral system,  
201 and related works or a portion of portions thereof, constructed by the United States pursuant to  
202 Contract No. 14-06-200-851A, and all Federal lands and Federal interests in lands held in  
203 connection therewith;

204 (ee) "Project Works" shall mean the Wintu Pumping Plant, the Bella Vista  
205 conduit, and all necessary federal lands and related facilities and structures located thereon; and

206 (ff) "Transferred Works" shall mean "Project Works" or "Distribution System"  
207 or both, as defined herein, or portions thereof which have been transferred to the Contractor for  
208 operation and maintenance, pursuant to the terms of Contract No. 14-06-200-851A.

209 TERM OF CONTRACT

210 2. (a) This Contract shall be effective March 1, 2005, through February 28, 2030,  
211 and supersedes the Existing Contract. In the event the Contractor wishes to renew this Contract  
212 beyond February 28, 2030, the Contractor shall submit a request for renewal in writing to the  
213 Contracting Officer no later than two years prior to the date this Contract expires. The renewal of  
214 this Contract insofar as it pertains to the furnishing of Irrigation Water to the Contractor shall be

215 governed by subdivision (b) of this Article, and the renewal of this Contract insofar as it pertains to  
216 the furnishing of M&I Water to the Contractor shall be governed by subdivision (c) of this Article.

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

222 (2) The conditions which must be met for this Contract to be renewed  
223 are: (i) the Contractor has prepared a water conservation plan that has been determined by the  
224 Contracting Officer in accordance with Article 26 of this Contract to meet the conservation and  
225 efficiency criteria for evaluating such plans established under Federal law; (ii) the Contractor is  
226 implementing an effective water conservation and efficiency program based on the Contractor's  
227 water conservation plan as required by Article 26 of this Contract; (iii) the Contractor is maintaining  
228 all water measuring devices and implementing all water measurement methods as approved by the  
229 Contracting Officer pursuant to Article 6 of this Contract; (iv) the Contractor has reasonably and  
230 beneficially used the Project Water supplies made available to it and, based on projected demands,  
231 is reasonably anticipated and expects to fully utilize for reasonable and beneficial use the quantity  
232 of Project Water to be made available to it pursuant to such renewal; (v) the Contractor is  
233 complying with all terms and conditions of this Contract; and (vi) the Contractor has the physical  
234 and legal ability to deliver Project Water.

235 (3) The terms and conditions of the renewal contract described in  
236 subdivision (b)(1) of this Article and any subsequent renewal contracts shall be developed  
237 consistent with the parties' respective legal rights and obligations, and in consideration of all  
238 relevant facts and circumstances, as those circumstances exist at the time of renewal, including,  
239 without limitation, the Contractor's need for continued delivery of Project Water; environmental  
240 conditions affected by implementation of the Contract to be renewed, and specifically changes in  
241 those conditions that occurred during the life of the Contract to be renewed; the Secretary's progress

242 toward achieving the purposes of the CVPIA as set out in Section 3402 and in implementing the  
243 specific provisions of the CVPIA; and current and anticipated economic circumstances of the region  
244 served by the Contractor.

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

253 (d) The Contracting Officer shall make a determination ten years after the date of  
254 execution of this Contract, and every five years thereafter during the term of this Contract, of  
255 whether a conversion of the relevant portion of this Contract to a contract under subsection 9(d) of  
256 the Reclamation Project Act of 1939 can be accomplished pursuant to the Act of July 2, 1956 (70  
257 Stat. 483). The Contracting Officer shall also make a determination ten years after the date of  
258 execution of this Contract and every five years thereafter during the term of this Contract of  
259 whether a conversion of the relevant portion of this Contract to a contract under subsection 9(c)(1)  
260 of the Reclamation Project Act of 1939 can be accomplished. Notwithstanding any provision of  
261 this Contract, the Contractor reserves and shall have all rights and benefits under the Act of July 2,  
262 1956 (70 Stat. 483). The Contracting Officer anticipates that during the term of this Contract, all  
263 authorized Project construction expected to occur will have occurred, and on that basis the  
264 Contracting Officer agrees upon such completion to allocate all costs that are properly assignable to  
265 the Contractor, and agrees further that, at any time after such allocation is made, and subject to  
266 satisfaction of the condition set out in this subdivision, this Contract shall, at the request of the  
267 Contractor, be converted to a contract under subsection 9(d) or 9(c)(1), whichever is applicable, of  
268 the Reclamation Project Act of 1939, subject to applicable Federal law and under stated terms and

269 conditions mutually agreeable to the Contractor and the Contracting Officer. A condition for such  
270 conversion to occur shall be a determination by the Contracting Officer that, account being taken of  
271 the amount credited to return by the Contractor as provided for under Federal Reclamation law, the  
272 remaining amount of construction costs assignable for ultimate return by the Contractor can  
273 probably be repaid to the United States within the term of a contract under subsection 9(d) or  
274 9(c)(1), whichever is applicable. If the remaining amount of costs that are properly assignable to  
275 the Contractor cannot be determined during the term of this Contract, the Contracting Officer shall  
276 notify the Contractor, and provide the reason(s) why such a determination could not be made.  
277 Further, the Contracting Officer shall make such a determination as soon thereafter as possible so as  
278 to permit, upon request of the Contractor and satisfaction of the condition set out above, conversion  
279 to a contract under subsection 9(d) or 9(c)(1), whichever is applicable. In the event such  
280 determination of costs has not been made at a time which allows conversion of this Contract during  
281 the term of this Contract or the Contractor has not requested conversion of this Contract within such  
282 term, the parties shall incorporate in any subsequent renewal contract as described in subdivision (b)  
283 of this Article a provision that carries forth in substantially identical terms the provisions of this  
284 subdivision.

285 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

286 3. (a) During each Year, consistent with all applicable State water rights, permits,  
287 and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this  
288 Contract, the Contracting Officer shall make available for delivery to the Contractor 24,578 acre-  
289 feet of Project Water for irrigation and M&I purposes. Water Delivered to the Contractor in  
290 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of  
291 Articles 4 and 7 of this Contract.

292 (b) Because the capacity of the Project to deliver Project Water has been  
293 constrained in recent years and may be constrained in the future due to many factors including  
294 hydrologic conditions and implementation of Federal and State laws, the likelihood of the

295 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this Article  
296 in any given Year is uncertain. The Contracting Officer's modeling referenced in the PEIS  
297 projected that the Contract Total set forth in this Contract will not be available to the Contractor in  
298 many years. During the most recent five years, the Recent Historic Average of water made  
299 available to the Contractor was 22,080 acre-feet of Irrigation and M&I Water. Nothing in  
300 subdivision (b) of this Article shall affect the rights and obligations of the parties under any  
301 provision of this Contract.

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

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

320 (e) The Contractor shall comply with requirements applicable to the Contractor  
321 in biological opinion(s) prepared as a result of a consultation regarding the execution of this

322 Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973 (ESA), as  
323 amended, that are within the Contractor's legal authority to implement. The Existing Contract,  
324 which evidences in excess of 38 years of diversions for irrigation and/or M&I purposes of the  
325 quantities of water provided in subdivision (a) of Article 3 of this Contract, will be considered in  
326 developing an appropriate baseline for biological assessment(s) prepared pursuant to the ESA, and  
327 any other needed environmental review. Nothing herein shall be construed to prevent the  
328 Contractor from challenging or seeking judicial relief in a court of competent jurisdiction with  
329 respect to any biological opinion or other environmental documentation referred to in this Article.

330 (f) As soon as possible following each declaration of Water Made Available  
331 under Article 4 of this Contract, the Contracting Officer will make a determination whether Project  
332 Water, or other water available to the Project, can be made available to the Contractor in addition to  
333 the Contract Total under Article 3 of this Contract during the Year without adversely impacting  
334 other Project Contractors. At the request of the Contractor, the Contracting Officer will consult  
335 with the Contractor prior to making such a determination. If the Contracting Officer determines  
336 that Project Water, or other water available to the Project, can be made available to the Contractor,  
337 the Contracting Officer will announce the availability of such water and shall so notify the  
338 Contractor as soon as practical. The Contracting Officer will thereafter meet with the Contractor  
339 and other Project Contractors capable of taking such water to determine the most equitable and  
340 efficient allocation of such water. If the Contractor requests the delivery of any quantity of such  
341 water, the Contracting Officer shall make such water available to the Contractor in accordance with  
342 applicable statutes, regulations, guidelines, and policies.

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

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

356 (i) Project Water furnished to the Contractor pursuant to this Contract may be  
357 delivered for purposes other than those described in subdivisions (m) and (o) of Article 1 of this  
358 Contract upon written approval by the Contracting Officer in accordance with the terms and  
359 conditions of such approval.

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

367 TIME FOR DELIVERY OF WATER

368 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall  
369 announce the Contracting Officer's expected declaration of the Water Made Available. Such  
370 declaration will be expressed in terms of both Water Made Available and the Recent Historic  
371 Average and will be updated monthly, and more frequently if necessary, based on then-current  
372 operational and hydrologic conditions and a new declaration with changes, if any, to the Water  
373 Made Available will be made. The Contracting Officer shall provide forecasts of Project operations  
374 and the basis of the estimate, with relevant supporting information, upon the written request of the



375 Contractor. Concurrently with the declaration of the Water Made Available, the Contracting  
376 Officer shall provide the Contractor with the updated Recent Historic Average.

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

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

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

391 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

392 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this  
393 Contract shall be delivered to the Contractor at the Sacramento River at the Wintu Pumping Plant  
394 and any additional point or points of delivery either on Project facilities or another location or  
395 locations mutually agreed to in writing by the Contracting Officer and the Contractor.

396 (b) The Contracting Officer shall make all reasonable efforts to maintain  
397 sufficient flows and levels of water in the Sacramento River to deliver Project Water to the  
398 Contractor at the Wintu Pumping Plant established as a delivery point pursuant to subdivision (a) of  
399 this Article.

400 (c) The Contractor shall deliver Irrigation Water in accordance with any  
401 applicable land classification provisions of Federal Reclamation law and the associated regulations.

402 The Contractor shall not deliver Project Water to land outside the Contractor's Service Area unless  
403 approved in advance by the Contracting Officer.

404 (d) All Water Delivered to the Contractor pursuant to this Contract shall be  
405 measured and recorded with equipment originally furnished and installed by the United States, and  
406 operated, maintained, and replaced as necessary by the Contractor at the point or points of delivery  
407 established pursuant to subdivision (a) of this Article. Upon the request of either party to this  
408 Contract, the Contracting Officer shall investigate the accuracy of such measurements and shall take  
409 any necessary steps to adjust any errors appearing therein. For any period of time when accurate  
410 measurements have not been made, the Contracting Officer shall consult with the Contractor prior  
411 to making a final determination of the quantity delivered for that period of time.

412 (e) The Contracting Officer shall not be responsible for the control, carriage,  
413 handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this  
414 Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor  
415 shall indemnify the United States, its officers, employees, agents, and assigns on account of damage  
416 or claim of damage of any nature whatsoever for which there is legal responsibility, including  
417 property damage, personal injury, or death arising out of or connected with the control, carriage,  
418 handling, use, disposal, or distribution of such Water Delivered beyond such delivery points, except  
419 for any damage or claim arising out of (i) acts or omissions of the Contracting Officer or any of its  
420 officers, employees, agents, or assigns, with the intent of creating the situation resulting in any  
421 damage or claim, (ii) willful misconduct of the Contracting Officer or any of its officers,  
422 employees, agents, or assigns, (iii) negligence of the Contracting Officer or any of its officers,  
423 employees, agents, or assigns, or (iv) damage or claims resulting from a malfunction of facilities  
424 owned and/or operated by the United States.

425 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

426 6. (a) The Contractor has established a measuring program satisfactory to the  
427 Contracting Officer. The Contractor shall ensure that all surface water delivered for irrigation  
428 purposes within the Contractor's Service Area is measured at each agricultural turnout and such

429 water delivered for M&I purposes is measured at each M&I service connection. The water  
430 measuring devices or water measuring methods of comparable effectiveness must be acceptable to  
431 the Contracting Officer. The Contractor shall be responsible for installing, operating, and  
432 maintaining and repairing all such measuring devices and implementing all such water measuring  
433 methods at no cost to the United States. The Contractor shall use the information obtained from  
434 such water measuring devices or water measuring methods to ensure its proper management of the  
435 water, to bill water users for water delivered by the Contractor; and, if applicable, to record water  
436 delivered for M&I purposes by customer class as defined in the Contractor's water conservation  
437 plan provided for in Article 26 of this Contract. Nothing herein contained, however, shall preclude  
438 the Contractor from establishing and collecting any charges, assessments, or other revenues  
439 authorized by California law. The Contractor shall include a summary of all its annual surface  
440 water deliveries in the annual report described in subdivision (c) of Article 26.

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

455 measuring methods as required by the Contracting Officer to ensure compliance with subdivision  
456 (a) of this Article.

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

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

463 (e) The Contractor shall inform the Contracting Officer on or before the 20<sup>th</sup>  
464 calendar day of each month of the quantity of Irrigation and M&I Water taken during the preceding  
465 month.

466 RATES AND METHOD OF PAYMENT FOR WATER

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

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

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

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

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

494 (c) At the time the Contractor submits the initial schedule for the delivery of  
495 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor  
496 shall make an advance payment to the United States equal to the total amount payable pursuant to  
497 the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be  
498 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end  
499 of the first month and before the end of each calendar month thereafter, the Contractor shall make  
500 an advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for  
501 the Water Scheduled to be delivered pursuant to this Contract during the second month immediately  
502 following. Adjustments between advance payments for Water Scheduled and payments at Rates  
503 due for Water Delivered shall be made before the end of the following month; Provided, That any  
504 revised schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases  
505 the amount of Water Delivered pursuant to this Contract during any month shall be accompanied  
506 with appropriate advance payment, at the Rates then in effect, to assure that Project Water is not  
507 delivered to the Contractor in advance of such payment. In any month in which the quantity of  
508 Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled

509 and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor  
510 unless and until an advance payment at the Rates then in effect for such additional Project Water is  
511 made. Final adjustment between the advance payments for the Water Scheduled and payments for  
512 the quantities of Water Delivered during each Year pursuant to this Contract shall be made as soon  
513 as practicable, but no later than April 30th of the following Year, or 60 days after the delivery of  
514 Project Water carried over under subdivision (g) of Article 3 of this Contract if such water is not  
515 delivered by the last day of February.

516 (d) The Contractor shall also make a payment in addition to the Rate(s) in  
517 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the  
518 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
519 month of delivery; Provided, That the Contractor may be granted an exception from the Tiered  
520 Pricing Component pursuant to subdivision (j)(2) of this Article. The payments shall be consistent  
521 with the quantities of Irrigation Water and M&I Water Delivered as shown in the water delivery  
522 report for the subject month prepared by the Contracting Officer. The water delivery report shall be  
523 deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water  
524 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the  
525 adjustment of payments due to the United States for Charges for the next month. Any amount to be  
526 paid for past due payment of Charges and the Tiered Pricing Component shall be computed  
527 pursuant to Article 20 of this Contract.

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

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

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

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

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

555 (j) (1) Beginning at such time as deliveries of Project Water in a Year  
556 exceed 80 percent of the Contract Total, then before the end of the month following the month of  
557 delivery the Contractor shall make an additional payment to the United States equal to the  
558 applicable Tiered Pricing Component. The Tiered Pricing Component for the amount of Water  
559 Delivered in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the  
560 Contract total, shall equal one-half of the difference between the Rate established under subdivision  
561 (a) of this Article and the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever

562 is applicable. The Tiered Pricing Component for the amount of Water delivered which exceeds 90  
563 percent of the Contract Total shall equal the difference between (i) the Rate established under  
564 subdivision (a) of this Article and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water  
565 Rate, whichever is applicable. For all Water Delivered pursuant to subdivision (a) of Article 3 of  
566 this Contract which is in excess of 80 percent of the Contract Total, this increment shall be deemed  
567 to be divided between Irrigation Water and M&I Water in the same proportion as actual deliveries  
568 of each bear to the cumulative total Water Delivered. Solely for the purpose of calculating the  
569 Tiered Pricing Component, the Full Cost Rate shall not include the interest component of the  
570 Contractor's water distribution system constructed by the United States and covered by Repayment  
571 Contract No. 14-06-200-851A entered into pursuant to 43 USC 485h(d).

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

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

585 (k) For the term of this Contract, Rates under the respective ratesetting policies  
586 will be established to recover only reimbursable O&M (including any deficits) and capital costs of



587 the Project, as those terms are used in the then-current Project ratesetting policies, and interest,  
588 where appropriate, except in instances where a minimum Rate is applicable in accordance with the  
589 relevant Project ratesetting policy. Changes of significance in practices which implement the  
590 Contracting Officer's ratesetting policies will not be implemented until the Contracting Officer has  
591 provided the Contractor an opportunity to discuss the nature, need, and impact of the proposed  
592 change.

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

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

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

614 Rates. The Contracting Officer agrees that the Contractor shall be entitled to the benefit of any  
615 administrative or judicial ruling in favor of any Project M&I contractor on any of these issues, and  
616 credits for payments heretofore made, Provided, That the basis for such ruling is applicable to the  
617 Contractor.

618 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

622 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

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

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

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

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

#### 663 APPLICATION OF PAYMENTS AND ADJUSTMENTS

664 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,  
665 capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of  
666 the Contractor arising out of this Contract then due and payable. Overpayments of more than  
667 \$1,000 shall be refunded at the Contractor's request. In lieu of a refund, any amount of such

668 overpayment, at the option of the Contractor, may be credited against amounts to become due to the  
669 United States by the Contractor. With respect to overpayment, such refund or adjustment shall  
670 constitute the sole remedy of the Contractor or anyone having or claiming to have the right to the  
671 use of any of the Project Water supply provided for herein. All credits and refunds of overpayments  
672 shall be made within 30 days of the Contracting Officer obtaining direction as to how to credit or  
673 refund such overpayment in response to the notice to the Contractor that it has finalized the  
674 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 when  
677 the work has been completed. If the advances exceed the actual costs incurred, the difference will  
678 be refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor  
679 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 contracts, or  
683 renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make  
684 all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this  
685 Contract.

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

694 Contractor, the United States will, if possible, deliver the quantity of Project Water which would  
695 have been delivered hereunder in the absence of such discontinuance or reduction.

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

702 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

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

713 (c) In any Year in which there may occur a shortage for any of the reasons  
714 specified in subdivision (b) above, the Contracting Officer shall apportion Project Water among the  
715 Contractor and others entitled, under existing contracts and future contracts (to the extent such  
716 future contracts are permitted under subsections (a) and (b) of Section 3404 of the CVPIA) and

717 renewals thereof, to receive Irrigation Water consistent with the contractual obligations of the  
718 United States.

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

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

728 UNAVOIDABLE GROUNDWATER PERCOLATION

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

733 RULES AND REGULATIONS

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

738 WATER AND AIR POLLUTION CONTROL

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

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QUALITY OF WATER

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.

(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 Service Area.

WATER ACQUIRED BY THE CONTRACTOR  
OTHER THAN FROM THE UNITED STATES

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 Reclamation law, the provisions of Federal Reclamation law will be applicable only to the Landholders of lands which receive Irrigation Water; (ii) the eligibility of land to receive Irrigation

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

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



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

791 (1) The Contractor may introduce non-Project water into Project facilities  
792 and deliver said water to lands within the Contractor's Service Area, including Ineligible Lands,  
793 subject to payment to the United States of an appropriate rate as determined by the applicable  
794 Project ratesetting policy, the RRA, and the Project use power policy, if such Project use power  
795 policy is applicable, each as 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 purposes  
798 as determined by the Contracting Officer; (ii) reduce the quantity or quality of water available to  
799 other Project Contractors; (iii) interfere with the delivery of contractual water entitlements to any  
800 other Project Contractors; or (iv) interfere with the physical maintenance of the Project facilities.

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

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

811 (5) After Project purposes are met, as determined by the Contracting  
812 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity of

813 the facilities declared to be available by the Contracting Officer for conveyance and transportation  
814 of non-Project water prior to any such remaining capacity being made available to non-Project  
815 contractors.

816 OPINIONS AND DETERMINATIONS

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

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

831 COORDINATION AND COOPERATION

832 19. (a) In order to further their mutual goals and objectives, the Contracting Officer  
833 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other  
834 affected Project Contractors, in order to improve the operation and management of the Project. The  
835 communication, coordination, and cooperation regarding operations and management shall include,  
836 but not be limited to, any action which will or may materially affect the quantity or quality of  
837 Project Water supply, the allocation of Project Water supply, and Project financial matters  
838 including, but not limited to, budget issues. The communication, coordination, and cooperation

839 provided for hereunder shall extend to all provisions of this Contract. Each party shall retain  
840 exclusive decision making authority for all actions, opinions, and determinations to be made by the  
841 respective party.

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

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

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

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

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

860 (3.1) The Secretary and the Contractor desire to work together to maximize  
861 the reasonable beneficial use of water for their mutual benefit. As a consequence, the Secretary and  
862 the Contractor will work in partnership and with others in the region of the Redding Groundwater  
863 Basin, including other Contractors in the Shasta and Trinity Divisions of the Project, to facilitate the  
864 better integration with the region of the Redding Groundwater Basin of all water supplies including,  
865 but not limited to, the better management and integration of surface water and groundwater,

866 transfers and exchanges of water, the development and better utilization of surface water storage,  
867 the effective utilization of waste, seepage and return flow water, and other operational and  
868 management options that may be identified in the future.

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

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

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

879 CHARGES FOR DELINQUENT PAYMENTS

880 20. (a) The Contractor shall be subject to interest, administrative and penalty charges  
881 on delinquent installments or payments. When a payment is not received by the due date, the  
882 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.  
883 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative  
884 charge to cover additional costs of billing and processing the delinquent payment. When a payment  
885 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six  
886 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the  
887 Contractor shall pay any fees incurred for debt collection services associated with a delinquent  
888 payment.

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

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

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EQUAL OPPORTUNITY

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

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

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

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

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

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

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

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(g) The Contractor will include the provisions of paragraphs (a) through (f) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of said amended Executive Order, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action

936 with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a  
937 means of enforcing such provisions, including sanctions for noncompliance: Provided, however,  
938 That in the event the Contractor becomes involved in, or is threatened with, litigation with a  
939 subcontractor or vendor as a result of such direction, the Contractor may request the United States  
940 to enter into such litigation to protect the interests of the United States.

941 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

954 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

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

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

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

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PRIVACY ACT COMPLIANCE

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

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

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

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

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

999                   CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1000           25.    In addition to all other payments to be made by the Contractor pursuant to this  
1001 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and  
1002 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of  
1003 direct cost incurred by the United States for work requested by the Contractor associated with this  
1004 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and  
1005 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in  
1006 writing in advance by the Contractor. This Article shall not apply to costs for routine contract  
1007 administration.

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WATER CONSERVATION

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

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

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



1034 (d) At five-year intervals, the Contractor shall revise its water conservation plan  
1035 to reflect the then-current conservation and efficiency criteria for evaluating water conservation  
1036 plans established under Federal law and submit such revised water management plan to the  
1037 Contracting Officer for review and evaluation. The Contracting Officer will then determine if the  
1038 water conservation plan meets Reclamation's then-current conservation and efficiency criteria for  
1039 evaluating water conservation plans established under Federal law.

1040 (e) If the Contractor is engaged in direct groundwater recharge, such activity  
1041 shall be described in the Contractor's water conservation plan.

1042 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1043 27. Except as specifically provided in Article 17 of this Contract, the provisions of this  
1044 Contract shall not be applicable to or affect non-Project water or water rights now owned or  
1045 hereafter acquired by the Contractor or any user of such water within the Contractor's Service Area.  
1046 Any such water shall not be considered Project Water under this Contract. In addition, this Contract  
1047 shall not be construed as limiting or curtailing any rights which the Contractor or any water user  
1048 within the Contractor's Service Area acquires or has available under any other contract pursuant to  
1049 Federal Reclamation law.

1050 28. Omitted.

1051 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1052 29. The expenditure or advance of any money or the performance of any obligation of  
1053 the United States under this Contract shall be contingent upon appropriation or allotment of funds.  
1054 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations  
1055 under this Contract. No liability shall accrue to the United States in case funds are not appropriated  
1056 or allotted.

1057 BOOKS, RECORDS, AND REPORTS

1058 30. (a) The Contractor shall establish and maintain accounts and other books and  
1059 records pertaining to administration of the terms and conditions of this Contract, including: the  
1060 Contractor's financial transactions, water supply data, and Project land and right-of-way  
1061 agreements; the water users' land-use (crop census), land ownership, land-leasing and water use  
1062 data; and other matters that the Contracting Officer may require. Reports thereon shall be furnished  
1063 to the Contracting Officer in such form and on such date or dates as the Contracting Officer may

1064 require. Subject to applicable Federal laws and regulations, each party to this Contract shall  
1065 have the right during office hours to examine and make copies of the other party's books and  
1066 records relating to matters covered by this Contract.

1067 (b) Notwithstanding the provisions of subdivision (a) of this Article, no  
1068 books, records, or other information shall be requested from the Contractor by the Contracting  
1069 Officer unless such books, records, or information are reasonably related to the administration or  
1070 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
1071 time within which to provide the requested books, records, or information.

1072 (c) Omitted.

1073 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1074 31. (a) The provisions of this Contract shall apply to and bind the successors and  
1075 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1076 therein shall be valid until approved in writing by the Contracting Officer.

1077 (b) The assignment of any right or interest in this Contract by either party  
1078 shall not interfere with the rights or obligations of the other party to this Contract absent the  
1079 written concurrence of said other party.

1080 (c) The Contracting Officer shall not unreasonably condition or withhold his approval  
1081 of any proposed assignment.

1082 SEVERABILITY

1083 32. In the event that a person or entity who is neither (i) a party to a Project contract,  
1084 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii)  
1085 an association or other form of organization whose primary function is to represent parties to  
1086 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1087 enforceability of a provision included in this Contract and said person, entity, association, or  
1088 organization obtains a final court decision holding that such provision is legally invalid or  
1089 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),  
1090 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such

1091 final court decision identify by mutual agreement the provisions in this Contract which must be  
1092 revised, and (ii) within three months thereafter promptly agree on the appropriate revision(s).  
1093 The time periods specified above may be extended by mutual agreement of the parties. Pending  
1094 the completion of the actions designated above, to the extent it can do so without violating any  
1095 applicable provisions of law, the United States shall continue to make the quantities of Project  
1096 Water specified in this Contract available to the Contractor pursuant to the provisions of this  
1097 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1098 RESOLUTION OF DISPUTES

1099 33. Should any dispute arise concerning any provisions of this Contract, or the  
1100 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to  
1101 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting  
1102 Officer referring any matter to Department of Justice, the party shall provide to the other party  
1103 30 days' written notice of the intent to take such action; Provided, That such notice shall not be  
1104 required where a delay in commencing an action would prejudice the interests of the party that  
1105 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer  
1106 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,  
1107 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the  
1108 United States may have.

1109 OFFICIALS NOT TO BENEFIT

1110 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1111 Contractor shall benefit from this Contract other than as a water user or landowner in the same  
1112 manner as other water users or landowners.

1113 CHANGES IN CONTRACTOR'S SERVICE AREA

1114 35. (a) While this Contract is in effect, no change may be made in the  
1115 Contractor's Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger,  
1116 or otherwise, except upon the Contracting Officer's written consent.

1117 (b) Within 30 days of receipt of a request for such a change, the Contracting  
1118 Officer will notify the Contractor of any additional information required by the Contracting

1119 Officer for processing said request, and both parties will meet to establish a mutually agreeable  
1120 schedule for timely completion of the process. Such process will analyze whether the proposed  
1121 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;  
1122 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or  
1123 to pay for any Federally-constructed facilities for which the Contractor is responsible; and (iii)  
1124 have an impact on any Project Water rights applications, permits, or licenses. In addition, the  
1125 Contracting Officer shall comply with the NEPA and the ESA. The Contractor will be  
1126 responsible for all costs incurred by the Contracting Officer in this process, and such costs will  
1127 be paid in accordance with Article 25 of this Contract.

1128 FEDERAL LAWS

1129 36. By entering into this Contract, the Contractor does not waive its rights to contest  
1130 the validity or application in connection with the performance of the terms and conditions of this  
1131 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with  
1132 the terms and conditions of this Contract unless and until relief from application of such Federal  
1133 law or regulation to the implementing provision of the Contract is granted by a court of  
1134 competent jurisdiction.

1135 NOTICES

1136 37. Any notice, demand, or request authorized or required by this Contract shall be  
1137 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
1138 delivered to the Area Manager, Bureau of Reclamation, Northern California Area Office,  
1139 16349 Shasta Dam Boulevard, Shasta Lake, California 96019, and on behalf of the  
1140 United States, when mailed, postage prepaid, or delivered to the Board of Directors of the Bella  
1141 Vista Water District, 11368 East Stillwater Way, Redding, California 96003. The designation of  
1142 the addressee or the address may be changed by notice given in the same manner as provided in  
1143 this Article for other notices.

1144 CONFIRMATION OF CONTRACT

1145 38. The Contractor, after the execution of this Contract, shall promptly seek to secure  
1146 a decree of a court of competent jurisdiction of the State of California, confirming the execution  
1147 of this Contract. The Contractor shall furnish the United States a certified copy of the final  
1148 decree, the validation proceedings, and all pertinent supporting records of the court approving

1149 and confirming this Contract, and decreeing and adjudging it to be lawful, valid, and binding on  
1150 the Contractor.

1151 AMENDATORY CONTRACT

1152 39. The parties hereto acknowledge and agree that Part A (i.e., Articles 2 through 10)  
1153 of Contract No. 14-06-200-851A is replaced by this Contract. The respective duties, covenants,  
1154 and obligations of the parties in Contract No. 14-06-200-851A which are not replaced by this  
1155 Contract shall continue in full force and effect pending prompt completion of good faith  
1156 negotiations between the parties to agree upon an amendatory contract.

1157 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of  
1158 the day and year first above written.

1159 THE UNITED STATES OF AMERICA

1160 By: \_\_\_\_\_  
1161 Regional Director, Mid-Pacific Region  
1162 Bureau of Reclamation

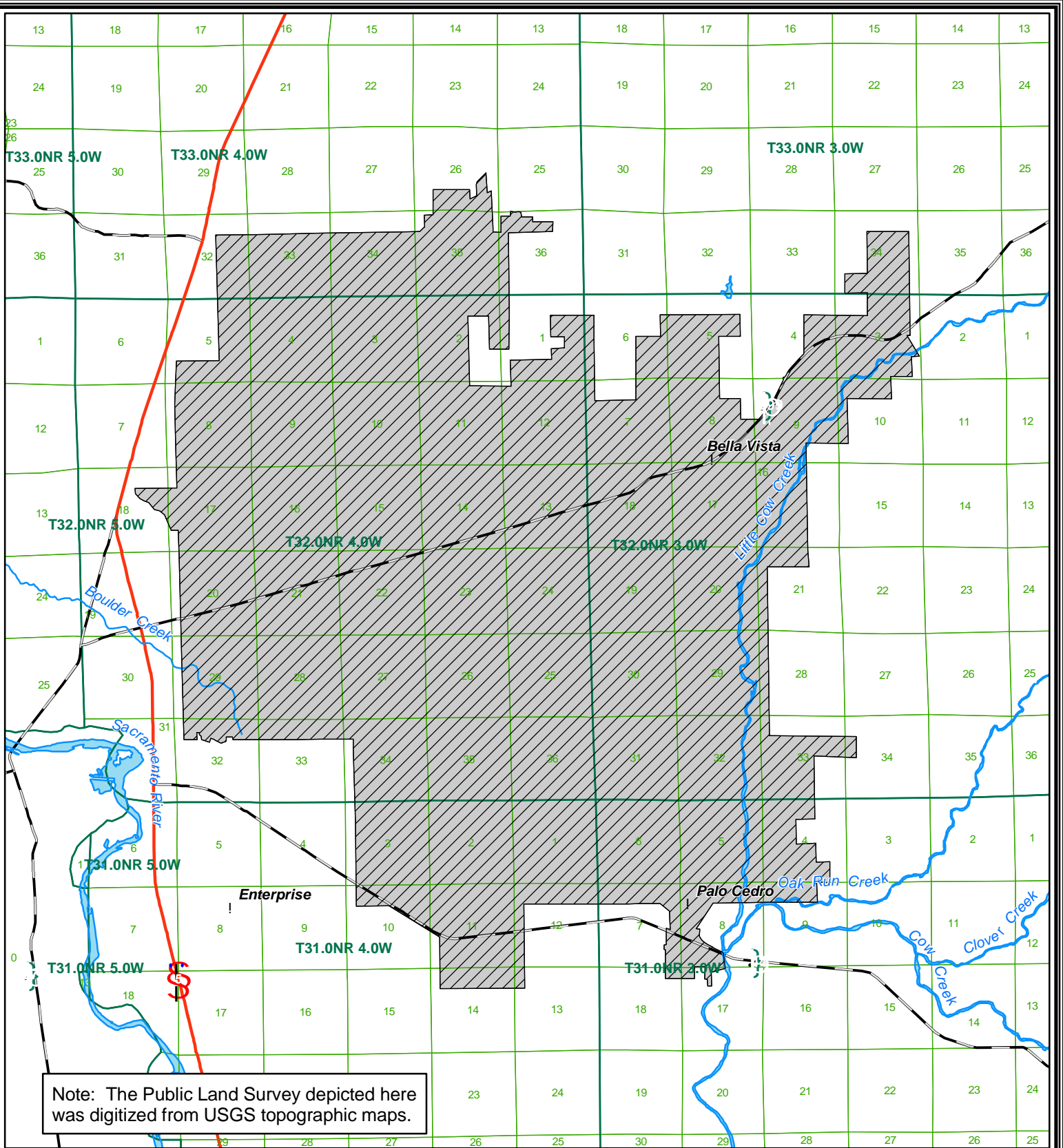
1163 (SEAL)

1164 BELLA VISTA WATER DISTRICT

1165 By: \_\_\_\_\_  
1166 President of the Board of Directors

1167 Attest:

1168 By: \_\_\_\_\_  
1169 Secretary of the Board of Directors





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

# Bella Vista Water District

Contract No. 14-06-200-851A-LTR1  
Exhibit A



-  Contractor's Service Area
-  District Boundary



## EXHIBIT B

**BELLA VISTA WATER DISTRICT**  
2005 Water Rates and Charges per Acre-Foot

	<u>Cost of Service</u>		Calculated
	<u>Irrigation</u>	<u>M&amp;I</u>	Payment Capacity 1/ <u>Irrigation</u>
<b><u>COST OF SERVICE RATES:</u></b>			
Capital Rates	\$10.21	\$15.27	\$0.00
O&M Rates:			
Water Marketing	\$6.61	\$3.89	\$6.61
Storage	\$5.93	\$6.67	\$5.93
Direct Pumping	\$6.67	\$6.67	\$6.67
Deficit Rates:			
Interest Bearing	\$0.00	\$13.84	\$0.00
CFO/PFR Adjustment Rate 2/	<u>\$1.61</u>	<u>\$1.78</u>	<u>\$1.61</u>
<b>TOTAL</b>	<u><b>\$31.03</b></u>	<u><b>\$48.12</b></u>	<u><b>\$20.82</b></u>

**IRRIGATION FULL-COST RATES:**

Section 202(3) Rate is applicable to a Qualified Recipient or to a Limited Recipient receiving irrigation water on or before October 1, 1981.

	<u>\$56.46</u>	<u>\$56.46</u>
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Section 205(a)(3) Rate is applicable to a Limited Recipient that did not receive irrigation water on or before October 1, 1981.

	<u>\$72.46</u>	<u>\$72.46</u>
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**M&I FULL COST RATE:** \$57.02

**TIERED PRICING COMPONENTS:**

Tiered Pricing Component >80% <=90% of Contract

Total [(Full Cost Rate – COS Rate) / 2]	<u>\$7.93</u>	<u>\$4.45</u>	<u>\$13.03</u>
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Tiered Pricing Component >90% of Contract

Total [Full Cost Rate – COS Rate]	<u>\$15.85</u>	<u>\$8.90</u>	<u>\$26.06</u>
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**CHARGES UNDER P.L. 102-575 TO THE RESTORATION FUND 3/**

Restoration Payments (3407(d)(2)(A))	<u>\$7.93</u>	<u>\$15.87</u>	<u>\$0.00</u>
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1/ Established pursuant to the results of the Payment Capacity Analysis for the Clear Creek CSD and Bella Vista WD as announced by letter dated October 2, 1996.

2/ 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.

3/ 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).

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

EXHIBIT C

GUIDELINES FOR DETERMINING IF PROJECT WATER  
IS PUT TO USE AS IRRIGATION WATER

A. Objective:

1. Achieve the proper use of Project Water irrespective of landholding size.
2. Obtain reimbursement to the Reclamation Fund for Project Water at the appropriate Rates.

B. Focus:

1. Usually, the Rates for Irrigation Water are significantly less than the Rates for M&I Water. Contractors that have both irrigation and M&I as purposes of use in their contracts have to determine the appropriate Rates to charge their customers for Project Water. That determination becomes more difficult for smaller landholdings because activities on a rural residence may appear to be similar to activities on a farm or ranch.
2. To qualify as Irrigation Water, Project Water must be used primarily in the production of crops or livestock for sale or barter beyond the quantity needed for personal use.

C. Criteria to consider:

1. Existence of a business or development plan; and
2. Crop or livestock sales or barter; and/or
3. Improvements to land, including but not limited to buildings (barns, storage facilities, workshop, livestock shed), irrigation system, leveling, corrals, fencing, fruit or nut trees, vines, etc.); and
4. Related enterprises involving the landholder. For example, Project Water diverted to irrigate pasture for horses used in a cattle operation would be at the Rates for Irrigation Water in contrast to Project Water diverted to irrigate pasture for horses used only for personal enjoyment which would be at the Rates for M&I Water.

D. Decision:

1. The Contractor shall be responsible for ascertaining whether Project Water delivered by it is put to use as Irrigation Water or M&I Water. In the past, Reclamation's focus has been on landholdings operated in units of less than two acres. More recently, that focus has been on landholdings operated in units of less than five acres.
2. The guidelines recognize that the Contractor surveyed all landholdings between two and five acres during the term of its first interim renewal contract to determine if those landholders were paying the appropriate Rates for Project Water. If the purpose of use has not changed since that survey was completed, those landholders will not be required to submit a new application to the Contractor to receive Project Water at the Rates for Irrigation Water. If the landholder but not the purpose of use has changed after the survey was completed but prior to execution of this Contract, those landholders will not be required to submit a new application requesting Project Water at the Rates for Irrigation Water. The Contractor will require a new application requesting Project Water at the Rates for Irrigation Water when there is a change in ownership of any of those landholdings after the date of execution of this Contract.



E. Review:

A decision made by the Contractor may be reviewed by Reclamation. If Reclamation does not agree with the Contractor's decision, Reclamation shall provide notification, in writing, to the Contractor explaining specifically why Reclamation believes the decision made by the Contractor to deliver Irrigation Water to the landholding was not done so in accordance with these guidelines. Within 30 days of receipt of such notification, Reclamation and the Contractor shall meet and confer to determine what corrective actions should be taken to resolve the disagreement in accordance with these guidelines. If Reclamation and the Contractor cannot resolve the disagreement within 90 days of that notification, Reclamation shall, thereafter, provide its final determination, in writing to the Contractor. The Contractor retains the right to appeal up to and including the Commissioner of Reclamation any final decision they are in disagreement with.

F. Documentation:

These guidelines presume a landholding is only eligible to receive Project Water at the Rates for M&I Water unless documentation is provided to the Contractor to show it qualifies for Irrigation Water or an application by a landholder requesting new service for Irrigation Water is approved by the Contractor. The Contractor shall retain such documentation for a period of six years after the initial determination is made that Project Water is being used for irrigation purposes or after a landholder no longer is using Project Water for irrigation purposes, whichever is longer.