

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

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

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	1
	Explanatory Recitals	1-5
1	Definitions	5-10
2	Term of Contract	10-13
3	Water to be Made Available and Delivered to the Contractor	13-19
4	Time for Delivery of Water	19-22
5	Point of Diversion and Responsibility for Distribution of Water	22-24
6	Measurement of Water Within the Service Area	24-25
7	Rates and Method of Payment for Water	25-32
8	Non-Interest Bearing Operation and Maintenance Deficits	32
9	Sales, Transfers, or Exchanges of Water	32-34
10	Application of Payments and Adjustments	34
11	Temporary Reductions--Return Flows	35-36
12	Constraints on the Availability of Water	36-38
13	Unavoidable Groundwater Percolation	38
14	Rules and Regulations	39
15	Water and Air Pollution Control	40
16	Quality of Water	40
17	Water Acquired by the Contractor Other Than From the United States	41-43
18	Opinions and Determinations	43-44
19	Coordination and Cooperation	44-46
20	Charges for Delinquent Payments	46
21	Equal Opportunity	46-47
22	General Obligation--Benefits Conditioned Upon Payment	48

23	Compliance With Civil Rights Laws and Regulations	48
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<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
24	Privacy Act Compliance	49
25	Contractor to Pay Certain Miscellaneous Costs	49-50
26	Water Conservation	50-51
27	Existing or Acquired Water or Water Rights	51
28	Operation and Maintenance by Non-Federal Entity	52-53
29	Contingent on Appropriation or Allotment of Funds	53
30	Books, Records, and Reports	54
31	Assignment Limited--Successors and Assigns Obligated	54-55
32	Severability	55
33	Resolution of Disputes	55-56
34	Officials Not to Benefit	56
35	Changes in Contractor's Service Area	56-57
36	Federal Laws.....	57
37	Notices.....	57
38	Confirmation of Contract	57
	Signature Page	
	Exhibit A	
	Exhibit B	

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3 BUREAU OF RECLAMATION
4 Central Valley Project, California

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6 AND
7 SAUCELITO IRRIGATION DISTRICT
8 PROVIDING FOR PROJECT WATER SERVICE
9 FROM FRIANT DIVISION

10 THIS CONTRACT, made this 20th day of January, 2001, in pursuance generally
11 of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto, including, but
12 not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and supplemented, August 4, 1939
13 (53 Stat. 1187), as amended and supplemented, July 2, 1956 (70 Stat. 483), June 21, 1963 (77 Stat. 68),
14 October 12, 1982 (96 Stat. 1262), October 27, 1986 (100 Stat. 3050), as amended, and Title XXXIV of
15 the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as Federal
16 Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the United
17 States, and SAUCELITO IRRIGATION DISTRICT, hereinafter referred to as the Contractor, a public
18 agency of the State of California, duly organized, existing, and acting pursuant to the laws thereof, with its
19 principal place of business in California;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

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

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

27 [2nd] WHEREAS, the United States constructed Friant Dam (thereby creating Millerton Lake)
28 and the Friant-Kern and Madera Canals, hereinafter collectively referred to as the Friant Division facilities,
29 which will be used in part for the furnishing of water to the Contractor pursuant to the terms of this Contract;
30 and

31 [3rd] WHEREAS, pursuant to Section 8 of the Act of June 17, 1902 (32 Stat. 388), the United
32 States has acquired water rights and other rights to the flows of the San Joaquin River, including without
33 limitation the permits issued as the result of Decision 935 by the California State Water Resource Control
34 Board and the contracts described in subdivision (n) of Article 3 of this Contract, pursuant to which the
35 Contracting Officer develops, diverts, stores and delivers Project Water stored or flowing through Millerton
36 Lake in accordance with State and Federal law for the benefit of Project Contractors in the Friant Division;
37 and

38 [3.1] WHEREAS, the water supplied to the Contractor pursuant to this Contract is Project Water
39 developed through the exercise of the rights described in the third (3rd) Explanatory Recital of this Contract;
40 and

41 [4th] WHEREAS, the Contractor and the United States entered into Contract No. I75r-2604, as
42 amended, which established terms for the delivery to the Contractor of Project Water from the Friant
43 Division from February 13, 1951, through February 28, 1991; and

Contract No. I75r-2604-LTR1

44 [5th] WHEREAS, the Contractor and the United States entered into Renewal Contract
45 No. I75r-2604R, which provided for continued water service to the Contractor from the Friant Division
46 from March 1, 1991, through February 28, 2029, but, in light of the Ninth Circuit Court of Appeals Opinion
47 in the lawsuit entitled Natural Resources Defense Council, et al. v. Roger Patterson, et al., that contract was
48 replaced by Interim Renewal Contract No. I75r-2604-IR1, dated July 10, 1998, which provides for
49 continued water service to the Contractor from the Friant Division from September 14, 1998, through
50 February 28, 2001; and

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

56 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
57 environmental review necessary to provide for long-term renewal of the Existing Contract; and

58 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing Contract,
59 pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the State of
60 California, for water service from the Central Valley Project; and

61 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of its
62 obligations under the Existing Contract; and

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

68 [11th] WHEREAS, water obtained from the Central Valley Project has been relied upon by urban
69 and agricultural areas within California for more than fifty (50) years, and is considered by the Contractor as
70 an essential portion of its water supply; and

71 [12th] WHEREAS, the economies of regions within the Central Valley Project, including the
72 Contractor's, depend upon the continued availability of water, including water service from the Central
73 Valley Project; and

74 [13th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships to
75 pursue measures to improve water supply, water quality, and reliability of the Project for all Project
76 purposes; and

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

83 [15th] Omitted;

84 [15.1] WHEREAS, during Uncontrolled Seasons, Friant Division Project Contractors utilize
85 undependable Class 2 Water in their service areas to, among other things, assist in the management and
86 alleviation of groundwater overdraft in the Friant Division service area, provide opportunities for
87 environmental enhancement, including restoration of the San Joaquin River below Friant Dam, minimize
88 flooding along the San Joaquin River, encourage optimal water management, and maximize the reasonable
89 and beneficial use of the water; and

90 [15.2] WHEREAS, the parties desire and intend that this Contract not provide a disincentive to
91 the Friant Division Project Contractors continuing to carry out the beneficial activities set out in the
92 Explanatory Recital immediately above; and

93 [16th] WHEREAS, the United States and the Contractor are willing to enter into this Contract
94 pursuant to Federal Reclamation law on the terms and conditions set forth below;

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

97 DEFINITIONS

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

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

102 (b) "Charges" shall mean the payments required by Federal Reclamation law in addition

103 to the Rates and Tiered Pricing Components specified in this Contract as determined annually by the
104 Contracting Officer pursuant to this Contract;

105 (b2) "Class 1 Water" shall mean that supply of water stored in or flowing through
106 Millerton Lake which, subject to the contingencies hereinafter described in Articles 3, 11, and 12 of this
107 Contract, will be available for delivery from Millerton Lake and the Friant-Kern and Madera Canals as a
108 dependable water supply during each Year;

109 (b3) "Class 2 Water" shall mean that supply of water which can be made available
110 subject to the contingencies hereinafter described in Articles 3, 11, and 12 of this Contract for delivery from
111 Millerton Lake and the Friant-Kern and Madera Canals in addition to the supply of Class 1 Water.

112 Because of its uncertainty as to availability and time of occurrence, such water will be undependable in
113 character and will be furnished only if, as, and when it can be made available as determined by the
114 Contracting Officer;

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

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

119 (e) "Contract Total" shall mean the maximum amount of Class 1 Water, plus the
120 maximum amount of Class 2 Water to which the Contractor is entitled under subdivision (a) of Article 3 of
121 this Contract;

122 (f) "Contractor's Service Area" shall mean the area to which the Contractor is
123 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto, which

124 may be modified from time to time in accordance with Article 35 of this Contract without amendment of this
125 Contract;

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

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

131 (i) "Excess Lands" shall mean all lands in excess of the limitations contained in Section
132 204 of the RRA, other than those lands exempt from acreage limitation under Federal Reclamation law;

133 (j) "Full Cost Rate" shall mean that water rate described in Sections 205(a)(3) or
134 202(3) of the RRA, whichever is applicable;

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

137 (l) "Irrigation Full Cost Water Rate" shall have the same meaning as "full cost" as that
138 term is used in paragraph (3) of Section 202 of the RRA;

139 (m) "Irrigation Water" shall mean water made available from the Project that is used
140 primarily in the production of agricultural crops or livestock, including domestic use incidental thereto, and
141 watering of livestock. Irrigation Water shall not include water used for purposes such as the watering of
142 landscaping or pasture for animals (e.g., horses) which are kept for personal enjoyment or water delivered
143 to landholdings operated in units of less than five (5) acres unless the Contractor establishes to the
144 satisfaction of the Contracting Officer that the use of water delivered to any such landholding is a use

145 described in this subdivision of this Article;

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

148 (n2) "Long Term Historic Average" shall mean the average of the final forecast of Water
149 Made Available to the Contractor pursuant to this Contract and the contracts referenced in the fourth (4th)
150 and fifth (5th) Explanatory Recitals of this Contract;

151 (o) Omitted;

152 (p) "Municipal and Industrial (M&I) Full Cost Water Rate" shall mean the annual rate,
153 which, as determined by the Contracting Officer, shall amortize the expenditures for construction allocable to
154 Project M&I facilities in service, including, O&M deficits funded, less payments, over such periods as may
155 be required under Federal Reclamation law with interest accruing from the dates such costs were first
156 incurred plus the applicable rate for the O&M of such Project facilities. Interest rates used in the calculation
157 of the M&I Full Cost Rate shall comply with the Interest Rate methodology contained in Section 202 (3)
158 (B) and (C) of the RRA;

159 (q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable care,
160 control, operation, repair, replacement (other than Capital replacement), and maintenance of Project
161 facilities;

162 (r) "Operating Non-Federal Entity" shall mean the Friant Water Users Authority, a
163 Non-Federal entity which has the obligation to operate and maintain all or a portion of the Friant Division
164 facilities pursuant to an agreement with the United States, and which may have funding obligations with

165 respect thereto;

166

167 (r2) "Other Water" shall mean water from the Project other than Irrigation Water as
168 described in subdivision (l) of this Article, which is used for a purpose that is considered to be an irrigation
169 use pursuant to State law such as the watering of landscaping or pasture for animals (e.g., horse) which are
170 kept for the personal enjoyment. For purposes of this Contract, Other Water shall be paid for at Rates and
171 Charges identical to those established for municipal and industrial water pursuant to the then current
172 Municipal and Industrial (M&I) Rate Setting Policy;

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

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

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

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

183 (w) Omitted;

184 (x) "Secretary" shall mean the Secretary of the Interior, a duly appointed successor, or

185 an authorized representative acting pursuant to any authority of the Secretary and through any agency of the
186 Department of the Interior;

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

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

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

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

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

199 TERM OF CONTRACT

200 2. (a) This Contract shall be effective March 1, 2001, through February 28, 2026. In the
201 event the Contractor wishes to renew the Contract beyond February 28, 2026, the Contractor shall submit
202 a request for renewal in writing to the Contracting Officer no later than two (2) years prior to the date this
203 Contract expires. The renewal of this Contract insofar as it pertains to the furnishing of Irrigation Water to

204 the Contractor shall be governed by subdivision (b) of this Article.

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

210 (2) The conditions which must be met for this Contract to be renewed are: (i)
211 the Contractor has prepared a water conservation plan that has been determined by the Contracting Officer
212 in accordance with Article 26 of this Contract to meet the conservation and efficiency criteria for evaluating
213 such plans established under Federal law; (ii) the Contractor is implementing an effective water conservation
214 and efficiency program based on the Contractor's water conservation plan as required by Article 26 of this
215 Contract; (iii) the Contractor is operating and maintaining all water measuring devices and implementing all
216 water measurement methods as approved by the Contracting Officer pursuant to Article 6 of this Contract;
217 (iv) the Contractor has reasonably and beneficially used the Project Water supplies made available to it and,
218 based on projected demands, is reasonably anticipated and expects fully to utilize for reasonable and
219 beneficial use the quantity of Project Water to be made available to it pursuant to such renewal; (v) the
220 Contractor is complying with all terms and conditions of this Contract and all legal obligations of the
221 Contractor, if any, set forth in an enforceable court order, final judgment and/or settlement relating to
222 restoration of the San Joaquin River; and (vi) the Contractor has the physical and legal ability to deliver
223 Project Water.

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

233 (c) This Contract, insofar as it pertains to the furnishing of Other Water to the
234 Contractor, shall be renewed for a period of twenty-five (25) years and thereafter shall be renewed for
235 successive periods of up to forty (40) years each, which periods shall be consistent with the then-existing
236 Reclamation-wide policy, under terms and conditions mutually agreeable to the parties and consistent with
237 Federal and State law. The present Reclamation-wide policy, dated March 20, 2000, provides that the
238 term of such contracts shall be no more than twenty-five (25) years each, subject to a variance to allow a
239 longer term in appropriate circumstances. The Contractor shall be afforded the opportunity to comment to
240 the Contracting Officer on the proposed adoption and application of any revised Reclamation-wide policy
241 applicable to the delivery of Project Other Water that would affect the term of any subsequent renewal
242 contract with the Contractor for the furnishing of Other Water.

243 (d) The Contracting Officer anticipates that by December 31, 2024, all authorized

244 Project construction expected to occur will have occurred, and on that basis the Contracting Officer agrees
245 by that date to allocate all costs that are properly assignable to the Contractor, and agrees further that, at
246 any time after such allocation is made, and subject to satisfaction of the conditions set out in this subdivision
247 of this Article, this Contract shall, at the request of the Contractor, be converted to a contract under
248 subsection (c)(1) and (d) of Section 9, of the Reclamation Project Act of 1939, subject to applicable
249 Federal law and under stated terms and conditions mutually agreeable to the Contractor and the Contracting
250 Officer. A condition for such conversion to occur shall be a determination by the Contracting Officer that,
251 account being taken of the amount credited to return by the Contractor as provided for under Reclamation
252 law, the remaining amount of construction costs assignable for ultimate return by the Contractor can
253 probably be repaid to the United States within the term of a contract under said subsection 9(c)(1) and (d).
254 If the remaining amount of costs that are properly assignable to the Contractor cannot be determined by
255 December 31, 2024, the Contracting Officer shall notify the Contractor, and provide the reason(s) why such
256 a determination could not be made. Further, the Contracting Officer shall make such a determination as
257 soon thereafter as possible so as to permit, upon request of the Contractor and satisfaction of the conditions
258 set out above, conversion to a contract under said subsection 9(c)(1) and (d). In the event such
259 determination of costs has not been made at a time which allows conversion of this Contract during the term
260 of this Contract or the Contractor has not requested conversion of this Contract within such term, the parties
261 shall incorporate in any subsequent renewal contract as described in Articles 2 (b) and (c) a provision that
262 carries forth in substantially identical terms the provisions of this Article 2(d). In the event the Contracting
263 Officer is able to make a determination of the remaining amount of costs that are properly assignable to the

264 Contractor before December 31, 2024, the Contracting Officer shall do so at the earliest time he/she has
265 such ability.

266 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

267 3. (a) During each Year, consistent with all applicable State water rights, permits, and
268 licenses; Federal law; and subject to the provisions set forth in Articles 11 and 12 of this Contract, the
269 Contracting Officer shall make available for delivery to the Contractor 21,200 acre-feet of Class 1 Water
270 and 32,800 acre-feet of Class 2 Water, for irrigation purposes. The quantity of Water Delivered to the
271 Contractor in accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of
272 Articles 4 and 7 of this Contract.

273 (b) Omitted.

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

276 (d) The Contractor shall make reasonable and beneficial use of all Project Water or
277 other water furnished pursuant to this Contract. Groundwater recharge programs, groundwater banking
278 programs, surface water storage programs, and other similar programs utilizing Project Water or other water
279 furnished pursuant to this Contract conducted within the Contractor's Service Area which are consistent
280 with applicable State law and result in use consistent with Reclamation law will be allowed; Provided, That
281 any direct recharge program(s) is (are) described in the Contractor's Water Conservation Plan submitted
282 pursuant to Article 26 of this Contract; Provided, further, That such Water Conservation Plan demonstrates
283 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average, the quantity of

284 Delivered Water is demonstrated to be reasonable for such uses and in compliance with Reclamation law.
285 Groundwater recharge programs, groundwater banking programs, surface water storage programs, and
286 other similar programs utilizing Project Water or other water furnished pursuant to this Contract conducted
287 outside the Contractor's Service Area may be permitted upon written approval of the Contracting Officer,
288 which approval will be based upon environmental documentation, Project Water rights, and Project
289 operational concerns. The Contracting Officer will address such concerns in regulations, policies, or
290 guidelines.

291 (e) The Contractor shall comply with requirements applicable to the Contractor in
292 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
293 undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within the
294 Contractor's legal authority to implement. The Contractor shall comply with the limitations or requirements
295 imposed by environmental documentation applicable to the Contractor and within its legal authority to
296 implement regarding specific activities, including conversion of Irrigation Water to M&I water. Nothing
297 herein shall be construed to prevent the Contractor from challenging or seeking judicial relief in a court of
298 competent jurisdiction with respect to any biological opinion or other environmental documentation referred
299 to in this Article.

300 (f) Subject to subdivisions (l) and (n) of Article 3 of this Contract, following the
301 declaration of Water Made Available under Article 4 of this Contract, the Contracting Officer will make a
302 determination whether Project Water, or other water available to the Project, can be made available to the
303 Contractor in addition to the Contract Total under Article 3 of this Contract during the Year without

304 adversely impacting other Project Contractors. At the request of the Contractor, the Contracting Officer
305 will consult with the Contractor prior to making such a determination. Subject to subdivisions (l) and (n) of
306 Article 3 of this Contract, if the Contracting Officer determines that Project Water, or other water available
307 to the Project, can be made available to the Contractor, the Contracting Officer will announce the availability
308 of such water and shall so notify the Contractor as soon as practical. The Contracting Officer will thereafter
309 meet with the Contractor and other Project Contractors capable of taking such water to determine the most
310 equitable and efficient allocation of such water. If the Contractor requests the delivery of any quantity of
311 such water, the Contracting Officer shall make such water available to the Contractor in accordance with
312 applicable statutes, regulations, guidelines, and policies.

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

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

324 shortages under Article 11 or subdivision (b) of Article 12 of this Contract or applicable provisions of any
325 subsequent renewal contracts.

326 (i) Project Water furnished to the Contractor pursuant to this Contract may be
327 delivered for purposes other than those described in subdivisions (m) and (r2) of Article 1 of this Contract
328 upon written approval by the Contracting Officer in accordance with the terms and conditions of such
329 approval.

330 (j) The Contracting Officer shall make reasonable efforts to protect the water rights and
331 other rights described in the third (3rd) Explanatory Recital of this Contract and to provide the water
332 available under this Contract. The Contracting Officer shall not object to participation by the Contractor, in
333 the capacity and to the extent permitted by law, in administrative proceedings related to the water rights and
334 other rights described in the third (3rd) Explanatory Recital of this Contract; Provided, however, That the
335 Contracting Officer retains the right to object to the substance of the Contractor's position in such a
336 proceeding.

337 (k) Project Water furnished to the Contractor during any month designated in a
338 schedule or revised schedule submitted by the Contractor and approved by the Contracting Officer shall be
339 deemed to have been accepted by the Contractor as Class 1 Water to the extent that Class 1 Water is
340 called for in such schedule for such month and shall be deemed to have been accepted as Class 2 Water to
341 the extent Class 2 Water is called for in such schedule for such month. If in any month the Contractor
342 diverts a quantity of water in addition to the total amount of Class 1 Water and Class 2 Water set forth in
343 the Contractor's approved schedule or revised schedule for such month, such additional diversions shall be

344 charged first against the Contractor's remaining Class 2 Water supply available in the current Year. To the
345 extent the Contractor's remaining Class 2 Water supply available in the current Year is not sufficient to
346 account for such additional diversions, such additional diversions shall be charged against the Contractor's
347 remaining Class 1 Water supply available in the current Year. To the extent the Contractor's remaining
348 Class 1 Water and Class 2 Water supplies available in the current Year are not sufficient to account for such
349 additional diversions, such additional diversions shall be charged first against the Contractor's available
350 Class 2 Water supply and then against the Contractor's available Class 1 Water supply, both for the
351 following

352 Year. Payment for all additional diversions of water shall be made in accordance with Article 7 of this
353 Contract.

354 (l) If the Contracting Officer determines there is a Project Water supply available at
355 Friant Dam as the result of an unusually large water supply not otherwise storable for Project purposes or
356 infrequent and otherwise unmanaged flood flows of short duration, such water will be made available to the
357 Contractor and others under Section 215 of the RRA pursuant to the priorities specified below if the
358 Contractor enters into a temporary contract with the United States not to exceed one (1) year for the
359 delivery of such water or, as otherwise provided for in Federal Reclamation law and associated regulations.
360 Such water may be identified by the Contractor either (i) as additional water to supplement the supply of
361 Class 1 Water and/or Class 2 Water made available to it pursuant to this Contract or, (ii) upon written
362 notification to the Contracting Officer, as water to be credited against the Contractor's Class 2 Water supply

363 available pursuant to this Contract. The Contractor shall deliver such water to Eligible Lands, or to Excess
364 Lands in accordance with this Article. The Contracting Officer shall make water determined to be available
365 pursuant to this subsection according to the following priorities: first, to long-term contractors for Class 1
366 Water and/or Class 2 Water within the Friant Division; second, to long-term contractors in the Cross Valley
367 Division of the Project. The Contracting Officer will consider and seek to accommodate requests from
368 other parties for Section 215 Water for use within the area identified as the Friant Division service area in
369 the environmental assessment developed in connection with the execution of this Contract.

370 (m) Nothing in this Contract, nor any action or inaction of the Contractor or Contracting
371 Officer in connection with the implementation of this Contract, is intended to override, modify, supersede or
372 otherwise interfere with any term or condition of the water rights and other rights referred in the third (3rd)
373 Explanatory Recital of this Contract.

374 (n) The rights of the Contractor under this Contract are subject to the terms of the
375 contract for exchange waters, dated July 27, 1939, between the United States and the San Joaquin and
376 Kings River Canal and Irrigation Company, Incorporated, et al., (hereinafter referred to as the Exchange
377 Contractors), Contract No. I1r-1144, as amended. The United States agrees that it will not deliver to the
378 Exchange Contractors thereunder waters of the San Joaquin River unless and until required by the terms of
379 said contract, and the United States further agrees that it will not voluntarily and knowingly determine itself
380 unable to deliver to the Exchange Contractors entitled thereto from water that is available or that may
381 become available to it from the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta
382 those quantities required to satisfy the obligations of the United States under said Exchange Contract and

383 under Schedule 2 of the Contract for Purchase of Miller and Lux Water Rights (Contract I1r-1145, dated
384 July 27, 1939).

385 TIME FOR DELIVERY OF WATER

386 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
387 announce the Contracting Officer's expected declaration of the Water Made Available. The declaration will
388 be updated monthly, and more frequently if necessary, based on then-current operational and hydrologic
389 conditions and a new declaration with changes, if any, to the Water Made Available will be made. The
390 Contracting Officer shall provide forecasts of Project operations and the basis of the estimate, with relevant
391 supporting information, upon the written request of the Contractor. Concurrently with the declaration of the
392 Water Made Available, the Contracting Officer shall provide the Contractor with the updated Long Term
393 Historic Average. The declaration of Project operations will be expressed in terms of both Water Made
394 Available and the Long Term Historic Average.

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

401 (c) The Contractor shall not schedule Project Water in excess of the quantity of Project
402 Water the Contractor intends to put to reasonable and beneficial use within the Contractor's Service Area,

403 or to sell, transfer or exchange pursuant to Article 9 of this Contract during any Year.

404 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this Contract, the
405 United States shall deliver Project Water to the Contractor in accordance with the initial schedule submitted
406 by the Contractor pursuant to subdivision (b) of this Article, or any written revision(s), satisfactory to the
407 Contracting Officer, thereto submitted within a reasonable time prior to the date(s) on which the requested
408 change(s) is/are to be implemented; Provided, That the total amount of water requested in that schedule or
409 revision does not exceed the quantities announced by the Contracting Officer pursuant to the provisions of
410 subdivision (a) of Article 3, and the Contracting Officer determines that there will be sufficient capacity
411 available in the appropriate Friant Division facilities to deliver the water in accordance with that schedule:
412 Provided, further, That the Contractor shall not schedule the delivery of any water during any period as to
413 which the Contractor is notified by the Contracting Officer or Operating Non-Federal Entity that Project
414 facilities required to make deliveries to the Contractor will not be in operation because of scheduled O&M.

415 (e) The Contractor may, during the period from and including November 1 of each
416 Year through and including the last day of February of that Year, request delivery of any amount of the
417 Class 1 Water estimated by the Contracting Officer to be made available to it during the following Year.
418 The Contractor may, during the period from and including January 1 of each Year (or such earlier date as
419 may be determined by the Contracting Officer) through and including the last day of February of that Year,
420 request delivery of any amount of Class 2 Water estimated by the Contracting Officer to be made available
421 to it during the following Year. Such water shall hereinafter be referred to as preuse water. Such request
422 must be submitted in writing by the Contractor for a specified quantity of preuse and shall be subject to the
423 approval of the Contracting Officer. Payment for preuse water so requested shall be at the appropriate

424 rate(s) for the following Year in accordance with Article 7 of this Contract and shall be made in advance of
425 delivery of any preuse water. The Contracting Officer shall deliver such preuse water in accordance with a
426 schedule or any revision thereof submitted by the Contractor and approved by the Contracting Officer, to
427 the extent such water is available and to the extent such deliveries will not interfere with the delivery of
428 Project Water entitlements to other Friant Division contractors or the physical maintenance of the Project
429 facilities. The quantities of preuse water delivered pursuant to this subdivision shall be deducted from the
430 quantities of water that the Contracting Officer would otherwise be obligated to make available to the
431 Contractor during the following Year; Provided, That the quantity of preuse water to be deducted from the
432 quantities of either Class 1 Water or Class 2 Water to be made available to the Contractor in the following
433 Year shall be specified by the Contractor at the time the preuse water is requested or as revised in its first
434 schedule for the following Year submitted in accordance with subdivision (b) of this Article, based on the
435 availability of the following Year water supplies as determined by the Contracting Officer.

436 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

437 5. (a) Project Water scheduled pursuant to subdivision (b) of Article 4 of this Contract
438 shall be delivered to the Contractor at a point or points of delivery either on Project facilities or another
439 location or locations mutually agreed to in writing by the Contracting Officer and the Contractor.

440 (b) The Contracting Officer, the Operating Non-Federal Entity, or other appropriate
441 entity shall make all reasonable efforts to maintain sufficient flows and levels of water in the Friant-Kern
442 Canal to deliver Project Water to the Contractor at specific turnouts established pursuant to subdivision (a)
443 of this Article.

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

448 (d) All Water Delivered to the Contractor pursuant to this Contract shall be measured
449 and recorded with equipment furnished, installed, operated, and maintained by the United States, the
450 Operating Non-Federal Entity or other appropriate entity as designated by the Contracting Officer
451 (hereafter "other appropriate entity") at the point or points of delivery established pursuant to subdivision (a)
452 of this Article. Upon the request of either party to this Contract, the Contracting Officer shall investigate, or
453 cause to be investigated by the responsible Operating Non-Federal Entity, the accuracy of such
454 measurements and shall take any necessary steps to adjust any errors appearing therein. For any period of
455 time when accurate measurements have not been made, the Contracting Officer shall consult with the
456 Contractor and the responsible Operating Non-Federal Entity prior to making a final determination of the
457 quantity delivered for that period of time.

458 (e) Neither the Contracting Officer nor any Operating Non-Federal Entity shall be
459 responsible for the control, carriage, handling, use, disposal, or distribution of Project Water Delivered to
460 the Contractor pursuant to this Contract beyond the delivery points specified in subdivision (a) of this
461 Article. The Contractor shall indemnify the United States, its officers, employees, agents, and assigns on
462 account of damage or claim of damage of any nature whatsoever for which there is legal responsibility,
463 including property damage, personal injury, or death arising out of or connected with the control, carriage,

464 handling, use, disposal, or distribution of such Project Water beyond such delivery points, except for any
465 damage or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers,
466 employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the intent of
467 creating the situation resulting in any damage or claim; (ii) willful misconduct of the Contracting Officer or
468 any of its officers, employees, agents, or assigns, including any responsible Operating Non-Federal Entity;
469 (iii) negligence of the Contracting Officer or any of its officers, employees, agents, or assigns including any
470 responsible Operating Non-Federal Entity; or (iv) damage or claims resulting from a malfunction of facilities
471 owned and/or operated by the United States or responsible Operating Non-Federal Entity; Provided, That
472 the Contractor is not the Operating Non-Federal Entity that owned or operated the malfunctioning
473 facility(ies) from which the damage claim arose.

474 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

475 6. (a) The Contractor established a measurement program satisfactory to the Contracting
476 Officer, all surface water delivered for irrigation purposes within the Contractor's Service Area is measured
477 at each agricultural turnout. The water measuring devices or water measuring methods of comparable
478 effectiveness must be acceptable to the Contracting Officer. The Contractor shall be responsible for
479 installing, operating, and maintaining and repairing all such measuring devices and implementing all such
480 water measuring methods at no cost to the United States. The Contractor shall use the information obtained
481 from such water measuring devices or water measuring methods to ensure its proper management of the
482 water, to bill water users for water delivered by the Contractor. Nothing herein contained, however, shall
483 preclude the Contractor from establishing and collecting any charges, assessments, or other revenues

484 authorized by California law. The Contractor shall include a summary of all its annual surface water
485 deliveries in the annual report described in subdivision (c) of Article 26 of this Contract.

486 (b) To the extent the information has not otherwise been provided, upon execution of
487 this Contract, the Contractor shall provide to the Contracting Officer a written report describing the
488 measurement devices or water measuring methods being used or to be used to implement subdivision (a) of
489 this Article and identifying the agricultural turnouts or alternative measurement programs approved by the
490 Contracting Officer, at which such measurement devices or water measuring methods are being used, and, if
491 applicable, identifying the locations at which such devices and/or methods are not yet being used including a
492 time schedule for implementation at such locations. The Contracting Officer shall advise the Contractor in
493 writing within sixty (60) days as to the adequacy of, and necessary modifications, if any, of the measuring
494 devices or water measuring methods identified in the Contractor's report and if the Contracting Officer does
495 not respond in such time, they shall be deemed adequate. If the Contracting Officer notifies the Contractor
496 that the measuring devices or methods are inadequate, the parties shall within sixty (60) days following the
497 Contracting Officer's response, negotiate in good faith the earliest practicable date by which the Contractor
498 shall modify said measuring devices and/or measuring methods as required by the Contracting Officer to
499 ensure compliance with subdivision (a) of this Article.

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

503 (d) The Contractor shall inform the Contracting Officer and the State of California in

504 writing by April 30 of each Year of the monthly volume of surface water delivered within the Contractor's
505 Service Area during the previous Year.

506 (e) The Contractor shall inform the Contracting Officer and the Operating
507 Non-Federal Entity on or before the twentieth (20th) calendar day of each month of the quantity of Irrigation
508 and Other Water taken during the preceding month.

509 RATES AND METHOD OF PAYMENT FOR WATER

510 7. (a) The Contractor shall pay the United States as provided in this Article for all
511 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance with: (i)
512 the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and the Secretary's then-existing
513 ratesetting policy for M&I water. Such ratesetting policies shall be amended, modified, or superseded only
514 through a public notice and comment procedure; (ii) applicable Reclamation law and associated rules and
515 regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be made by
516 cash transaction, wire, or any other mechanism as may be agreed to in writing by the Contractor and the
517 Contracting Officer. The Rates, Charges, and Tiered Pricing Components applicable to the Contractor
518 upon execution of this Contract are set forth in Exhibit "B", as may be revised annually.

519 (b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and
520 Tiered Pricing Components as follows:

521 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall provide
522 the Contractor an estimate of the Charges for Project Water that will be applied to the period October 1, of
523 the current Calendar Year, through September 30, of the following Calendar Year, and the basis for such

524 estimate. The Contractor shall be allowed not less than two (2) months to review and comment on such
525 estimates. On or before September 15 of each Calendar Year, the Contracting Officer shall notify the
526 Contractor in writing of the Charges to be in effect during the period
527 October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and such
528 notification shall revise Exhibit "B."

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

536 (c) At the time the Contractor submits the initial schedule for the delivery of Project
537 Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor shall make an
538 advance payment to the United States equal to the total amount payable pursuant to the applicable Rate(s)
539 set under subdivision (a) of this Article, for the Project Water scheduled to be delivered pursuant to this
540 Contract during the first two (2) calendar months of the Year. Before the end of the first month and before
541 the end of each calendar month thereafter, the Contractor shall make an advance payment to the United
542 States, at the Rate(s) set under subdivision (a) of this Article, for the Water Scheduled to be delivered
543 pursuant to this Contract during the second month immediately following. Adjustments between advance

544 payments for Water Scheduled and payments at Rates due for Water Delivered shall be made before the
545 end of the following month; Provided, That any revised schedule submitted by the Contractor pursuant to
546 Article 4 of this Contract which increases the amount of Water Delivered pursuant to this Contract during
547 any month shall be accompanied with appropriate advance payment, at the Rates then in effect, to assure
548 that Project Water is not delivered to the Contractor in advance of such payment. In any month in which the
549 quantity of Water Delivered to the Contractor pursuant to this Contract equals the quantity of Water
550 Scheduled and paid for by the Contractor, no additional Project Water shall be delivered to the Contractor
551 unless and until an advance payment at the Rates then in effect for such additional Project Water is made.
552 Final adjustment between the advance payments for the Water Scheduled and payments for the quantities of
553 Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no
554 later than April 30th of the following Year, or sixty (60) days after the delivery of Project Water carried
555 over under subdivision (f) of Article 3 of this Contract if such water is not delivered by the last day of
556 February.

557 (d) The Contractor shall also make a payment in addition to the Rate(s) in subdivision
558 (c) of this Article to the United States for Water Delivered, at the Charges and the appropriate Tiered
559 Pricing Component then in effect, before the end of the month following the month of delivery; Provided,
560 That the Contractor may be granted an exception from the Tiered Pricing Component pursuant to
561 subdivision (j)(2) of this Article. The payments shall be consistent with the quantities of Irrigation Water and
562 Other Water Delivered as shown in the water delivery report for the subject month prepared by the
563 Operating Non-Federal Entity or, if there is no Operating Non-Federal Entity, by the Contracting Officer.

564 Such water delivery report shall be the basis for payment of Charges and Tiered Pricing Components by the
565 Contractor, and shall be provided to the Contractor by the Operating Non-Federal Entity or the Contracting
566 Officer (as applicable) within five (5) days after the end of the month of delivery. The water delivery report
567 shall be deemed a bill for the payment of Charges and the applicable Tiered Pricing Component for Water
568 Delivered. Adjustment for overpayment or underpayment of Charges shall be made through the adjustment
569 of payments due to the United States for Charges for the next month. Any amount to be paid for past due
570 payment of Charges and the Tiered Pricing Component shall be computed pursuant to Article 20 of this
571 Contract.

572 (e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or (g)
573 of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable statutes,
574 associated regulations, any applicable provisions of guidelines or ratesetting policies; Provided, That the
575 Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall be no more than the
576 otherwise applicable Rate for Irrigation Water or Other Water under subdivision (a) of this Article.

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

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

583 (h) The Contracting Officer shall keep its accounts pertaining to the administration of the

584 financial terms and conditions of its long-term contracts, in accordance with applicable Federal standards, so
585 as to reflect the application of Project costs and revenues. The Contracting Officer shall, each Year upon
586 request of the Contractor, provide to the Contractor a detailed accounting of all Project and Contractor
587 expense allocations, the disposition of all Project and Contractor revenues, and a summary of all water
588 delivery information. The Contracting Officer and the Contractor shall enter into good faith negotiations to
589 resolve any discrepancies or disputes relating to accountings, reports, or information.

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

596 (j) (1) Beginning at such time as the total of the deliveries of Class 1 Water and
597 Class 2 Water in a Year exceed eighty (80%) percent of the Contract Total, then before the end of the
598 month following the month of delivery the Contractor shall make an additional payment to the United States
599 equal to the applicable Tiered Pricing Component. The Tiered Pricing Component for the total of the
600 deliveries of Class 1 Water and Class 2 Water in excess of eighty (80%) percent of the Contract Total, but
601 less than or equal to ninety (90%) percent of the Contract Total, shall equal the one-half of the difference
602 between the Rate established under subdivision (a) of Article 7 of this Contract and the Irrigation Full Cost

603 Water Rate or M&I Full Cost Water Rate, whichever is applicable. The Tiered Pricing Component for the
604 total of the deliveries of Class 1 Water and Class 2 Water which exceeds ninety (90%) percent of the
605 Contract Total shall equal the difference between (i) the Rate established under subdivision (a) of Article 7
606 of this Contract and (ii) the Irrigation Full Cost Water Rate or M&I Full Cost Water Rate, whichever is
607 applicable.

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

615 (3) For purposes of determining the applicability of the Tiered Pricing
616 Components pursuant to this Article, Water Delivered shall include Project Water that the Contractor
617 transfers to others but shall not include Project Water transferred and delivered to the Contractor.

618 (k) For the term of this Contract, Rates under the respective ratesetting policies will be
619 established to recover only reimbursable "operation and maintenance" (including any deficits) and capital
620 costs of the Project, as those terms are used in the then-current Project ratesetting policies, and interest,
621 where appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant
622 Project ratesetting policy. Changes of significance in practices which implement the Contracting Officer's

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

625 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA, the
626 Rates for Project Water transferred by the Contractor shall be the Contractor's Rates adjusted upward or
627 downward to reflect the changed costs of delivery (if any) of the transferred Project Water to the
628 transferee's point of delivery in accordance with the then applicable CVP Ratesetting Policy. If the
629 Contractor is receiving lower Rates and Charges because of inability to pay and is transferring Project
630 Water to another entity whose Rates and Charges are not adjusted due to inability to pay, the Rates and
631 Charges for transferred Project Water shall be the Contractor's Rates and Charges unadjusted for ability to
632 pay.

633 (m) Pursuant to the Act of October 27, 1986 (100 Stat. 3050), the Contracting Officer
634 is authorized to adjust determinations of ability to pay every five (5) years.

635 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

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

639 SALES, TRANSFERS, OR EXCHANGES OF WATER

640 9. (a) The right to receive Project Water provided for in this Contract may be sold,
641 transferred, or exchanged to others for reasonable and beneficial uses within the State of California if such
642 sale, transfer, or exchange is authorized by applicable Federal and State laws, and applicable guidelines or

643 regulations then in effect. No sale, transfer, or exchange of Project Water under this Contract may take
644 place without the prior written approval of the Contracting Officer, except as provided for in subdivision (b)
645 of this Article, and no such sales, transfers, or exchanges shall be approved absent compliance with
646 appropriate environmental documentation including but not limited to the National Environmental Policy Act
647 and the Endangered Species Act. Such environmental documentation should include, as appropriate, an
648 analysis of groundwater impacts and economic and social effects, including environmental justice, of the
649 proposed water transfers on both the transferor and transferee.

650 (b) In order to facilitate efficient water management by means of water transfers of the
651 type historically carried out among Project Contractors located within the same geographical area and to
652 allow the Contractor to participate in an accelerated water transfer program during the term of this Contract,
653 the Contracting Officer shall prepare, as appropriate, necessary environmental documentation including, but
654 not limited to, the National Environmental Policy Act and the Endangered Species Act analyzing annual
655 transfers within such geographical areas and the Contracting Officer shall determine whether such transfers
656 comply with applicable law. Following the completion of the environmental documentation, such transfers
657 addressed in such documentation shall be conducted with advance notice to the Contracting Officer, but
658 shall not require prior written approval by the Contracting Officer. Such environmental documentation and
659 the Contracting Officer's compliance determination shall be reviewed every five (5) years and updated, as
660 necessary, prior to the expiration of the then existing five (5) -year period. All subsequent environmental
661 documentation shall include an alternative to evaluate not less than the quantity of Project Water historically
662 transferred within the same geographical area.

663 (c) For a water transfer to qualify under subdivision (b) of this Article, such water
664 transfer must: (i) be for irrigation purposes for lands irrigated within the previous three (3) years, for M&I
665 use, groundwater recharge, groundwater banking, similar groundwater activities, surface water storage, or
666 fish and wildlife resources; not lead to land conversion; and be delivered to established cropland, wildlife
667 refuges, groundwater basins or municipal and industrial use; (ii) occur within a single Year; (iii) occur
668 between a willing seller and a willing buyer; (iv) convey water through existing facilities with no new
669 construction or modifications to facilities and be between existing Project Contractors and/or the Contractor
670 and the United States, Department of the Interior; and (v) comply with all applicable Federal, State, and
671 local or tribal laws and requirements imposed for protection of the environment and Indian Trust Assets, as
672 defined under Federal law.

673 APPLICATION OF PAYMENTS AND ADJUSTMENTS

674 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
675 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of the
676 Contractor arising out of this Contract then due and payable. Overpayments of more than One Thousand
677 Dollars (\$1,000) shall be refunded at the Contractor's request. In lieu of a refund, any amount of such
678 overpayment at the option of the Contractor, may be credited against amounts to become due to the United
679 States by the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole
680 remedy of the Contractor or anyone having or claiming to have the right to the use of any of the Project
681 Water supply provided for herein. All credits and refunds of overpayments shall be made within thirty (30)
682 days of the Contracting Officer obtaining direction as to how to credit or refund such overpayment in

683 response to the notice to the Contractor that it has finalized the accounts for the Year in which the
684 overpayment was made.

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

690 TEMPORARY REDUCTIONS--RETURN FLOWS

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

695 (b) The Contracting Officer or Operating Non-Federal Entity may temporarily
696 discontinue or reduce the quantity of Water Delivered to the Contractor as herein provided for the purposes
697 of investigation, inspection, maintenance, repair, or replacement of any of the Project facilities or any part
698 thereof necessary for the delivery of Project Water to the Contractor, but so far as feasible the Contracting
699 Officer or Operating Non-Federal Entity will give the Contractor due notice in advance of such temporary
700 discontinuance or reduction, except in case of emergency, in which case no notice need be given; Provided,
701 That the United States shall use its best efforts to avoid any discontinuance or reduction in such service.

702 Upon resumption of service after such reduction or discontinuance, and if requested by the Contractor, the
703 United States will, if possible, deliver the quantity of Project Water which would have been delivered
704 hereunder in the absence of such discontinuance or reduction.

705 (c) The United States reserves the right to all seepage and return flow water derived
706 from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the Contractor's
707 Service Area; Provided, That this shall not be construed as claiming for the United States any right as
708 seepage or return flow to water being used pursuant to this Contract for surface irrigation or underground
709 storage either being put to reasonable and beneficial use pursuant to this Contract within the Contractor's
710 Service Area by the Contractor or those claiming by, through, or under the Contractor. For purposes of this
711 subdivision, groundwater recharge, groundwater banking and all similar groundwater activities will be
712 deemed to be underground storage.

713 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

719 (b) If there is a Condition of Shortage because of errors in physical operations of the
720 Project, drought, other physical causes beyond the control of the Contracting Officer or actions taken by the
721 Contracting Officer to meet legal obligations then, except as provided in subdivision (a) of Article 18 of this

722 Contract, no liability shall accrue against the United States or any of its officers, agents, or employees for
723 any damage, direct or indirect, arising therefrom.

724 (c) The United States shall not execute contracts which together with this Contract, shall
725 in the aggregate provide for furnishing during the life of this Contract or any renewals hereof Class 1 Water
726 in excess of 800,000 acre-feet per Year or Class 2 Water in excess of 1,401,475 acre-feet per Year;
727 Provided, That, subject to subdivision (l) of Article 3 of this Contract, the limitation placed on Class 2 Water
728 contracts shall not prohibit the United States from entering into temporary contracts of one year or less in
729 duration for delivery of Project Water to other entities if such water is not necessary to meet the schedules
730 as may be submitted by all Friant Division
731 long-term water service contractors entitled to receive Class 1 Water and/or Class 2 Water under their
732 water service contracts. Nothing in this subdivision shall limit the Contracting Officer's ability to take actions
733 that result in the availability of new water supplies to be used for Project purposes and allocating such new
734 supplies; Provided, That the Contracting Officer shall not take such actions until after consultation with the
735 Friant Division Project Contractors.

736 (d) The Contracting Officer shall not deliver any Class 2 Water pursuant to this or any
737 other contract for water service heretofore or hereafter entered into any Year unless and until the
738 Contracting Officer determines that the cumulative total quantity of Class 1 Water specified in subdivision (c)
739 of this Article will be available for delivery in said Year. If the Contracting Officer determines there is or will
740 be a shortage in any Year in the quantity of Class 1 Water available for delivery, the Contracting Officer
741 shall apportion the available Class 1 Water among all contractors entitled to receive such water that will be

742 made available at Friant Dam in accordance with the following:

743 (1) A determination shall be made of the total quantity of Class 1 Water at
744 Friant Dam which is available for meeting Class 1 Water contractual commitments, the amount so
745 determined being herein referred to as the available supply.

746 (2) The total available Class 1 supply shall be divided by the Class 1 Water
747 contractual commitments, the quotient thus obtained being herein referred to as the Class 1 apportionment
748 coefficient.

749 (3) The total quantity of Class 1 Water under Article 3 of this Contract shall be
750 multiplied by the Class 1 apportionment coefficient and the result shall be the quantity of Class 1 Water
751 required to be delivered by the Contracting Officer to the Contractor for the respective Year, but in no
752 event shall such amount exceed the total quantity of Class 1 Water specified in subdivision (a) of Article 3 of
753 this Contract.

754 (e) If the Contracting Officer determines there is less than the quantity of Class 2 Water
755 which the Contractor otherwise would be entitled to receive pursuant to Article 3 of this Contract, the
756 quantity of Class 2 Water which shall be furnished to the Contractor by the Contracting Officer will be
757 determined in the manner set forth in paragraphs (1), (2), and (3), of subdivision (d) of this Article
758 substituting the term "Class 2" for the term "Class 1."

759 (f) In the event that in any Year there is made available to the Contractor, by reason of
760 any shortage or apportionment as provided in subdivisions (a), (d) or (e) of this Article, or any
761 discontinuance or reduction of service as set forth in subdivision (a) of Article 11 of this Contract, less than

762 the quantity of water which the Contractor otherwise would be entitled to receive hereunder, there shall be
763 made an adjustment on account of the amounts already paid to the Contracting Officer by the Contractor for
764 Class 1 Water and Class 2 Water for said Year in accordance with Article 10 of this Contract.

765 UNAVOIDABLE GROUNDWATER PERCOLATION

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

770 RULES AND REGULATIONS

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

775 (b) The terms of this Contract are subject to any enforceable order, judgment and/or
776 settlement in NRDC v. Patterson, No. CIVS 88-1658-LKK-EM and shall be timely modified as necessary
777 to effectuate or facilitate any final order, judgment or settlement in said litigation.

778 (c) The parties acknowledge that, as of the effective date of this Contract, active
779 settlement discussions are underway in NRDC v. Patterson between Friant Division water service
780 contractors, representatives of the Contracting Officer, and the plaintiffs in NRDC v. Patterson. The mutual
781 goals of the parties to those discussions are (i) to expeditiously evaluate and implement, on a mutually
782 acceptable basis, instream and related measures that will restore ecological functions and hydrologic and

783 geomorphologic processes of the San Joaquin River below Friant Dam to a level that restores and maintains
784 fish populations in good condition, including but not limited to naturally-reproducing, self-sustaining
785 populations of chinook salmon and (ii) to accomplish these restoration goals while not adversely impacting
786 the overall sufficiency, reliability and cost of water supplies to Friant Division water users. The Contractor
787 has been actively participating, and intends to continue to participate in such settlement discussions. Except
788 as provided in this Contract, this Contract does not add to the obligations of the parties, if any, relating to
789 the San Joaquin River. This Contract does not limit or detract from the obligations of the parties, if any,
790 relating to the San Joaquin River.

791 WATER AND AIR POLLUTION CONTROL

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

795 QUALITY OF WATER

796 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to this
797 Contract shall be operated and maintained to enable the United States to deliver Project Water to the
798 Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act of August
799 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat. 3050) or
800 other existing Federal laws. The United States is under no obligation to construct or furnish water treatment
801 facilities to maintain or to improve the quality of Water Delivered to the Contractor pursuant to this
802 Contract. The United States does not warrant the quality of Water Delivered to the Contractor pursuant to

803 this Contract.

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

810 WATER ACQUIRED BY THE CONTRACTOR
811 OTHER THAN FROM THE UNITED STATES

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

822 irrigate such Eligible Lands. The Contractor and the Contracting Officer acknowledge that the Contractor's
823 distribution system that was constructed with Federal financing was, prior to effective date of this Contract,
824 repaid in full and title to the facilities transferred to the Contractor. As such, when such facilities are utilized
825 for commingling Irrigation Water and non-project water, the provisions of Federal Reclamation law will be
826 applicable only to the landholders of lands which receive Irrigation Water.

827 (b) Water or water rights now owned or hereafter acquired by the Contractor, other
828 than from the United States or adverse to the Project or its contractors (i.e., non-project water), may be
829 stored, conveyed and/or diverted through Project facilities, subject to the completion of appropriate
830 environmental documentation, with the approval of the Contracting Officer and the execution of any contract
831 determined by the Contracting Officer to be necessary, consistent with the following provisions:

832 (1) The Contractor may introduce non-project water into Project facilities and
833 deliver said water to lands within the Contractor's Service Area, including Ineligible Lands, subject to
834 payment to the United States and/or to any applicable Operating Non-Federal Entity of an appropriate rate
835 as determined by the CVP Ratesetting Policy and the RRA, each as amended, modified or superseded from
836 time to time. In addition, if electrical power is required to pump non-project water through the facilities, the
837 Contractor shall be responsible for obtaining the necessary power and paying the necessary charges
838 therefor.

839 (2) Delivery of such non-project water in and through Project facilities shall only
840 be allowed to the extent such deliveries do not: (i) interfere with other Project purposes as determined by
841 the Contracting Officer; (ii) reduce the quantity or quality of water available to other Project water service

842 contractors; (iii) interfere with the delivery of contractual water entitlements to any other Project water
843 service contractors; or (iv) interfere with the physical maintenance of the Project facilities.

844 (3) Neither the United States nor the Operating Non-Federal Entity shall be
845 responsible for control, care or distribution of the non-project water before it is introduced into or after it is
846 delivered from the Project facilities. The Contractor hereby releases and agrees to defend and indemnify the
847 United States and the Operating Non-Federal Entity, and their respective officers,

848 agents, and employees, from any claim for damage to persons or property, direct or indirect, resulting from
849 Contractor's diversion or extraction of non-project water from any source.

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

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

857 OPINIONS AND DETERMINATIONS

858 18. (a) Where the terms of this Contract provide for actions to be based upon the opinion
859 or determination of either party to this Contract, said terms shall not be construed as permitting such action
860 to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. Both parties,

861 notwithstanding any other provisions of this Contract, expressly reserve the right to seek relief from and
862 appropriate adjustment for any such arbitrary, capricious, or unreasonable opinion or determination. Each
863 opinion or determination by either party shall be provided in a timely manner. Nothing in subdivision (a) of
864 Article 18 of this Contract is intended to or shall affect or alter the standard of judicial review applicable
865 under federal law to any opinion or determination implementing a specific provision of federal law embodied
866 in statute or regulation.

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

871 COORDINATION AND COOPERATION

872 19. (a) In order to further their mutual goals and objectives, the Contracting Officer and the
873 Contractor shall communicate, coordinate, and cooperate with each other, and with other affected Project
874 Contractors, in order to improve the operation and management of the Project. The communication,
875 coordination, and cooperation regarding operations and management shall include, but not be limited to, any
876 action which will or may materially affect the quantity or quality of Project Water supply, the allocation of
877 Project Water supply, and Project financial matters including, but not limited to, budget issues. The
878 communication, coordination, and cooperation provided for hereunder shall extend to all provisions of this
879 Contract. Each party shall retain exclusive decision making authority for all actions, opinion, and

880 determinations to be made by the respective party.

881 (b) Within one-hundred twenty (120) days following the effective date of this Contract,
882 the Contractor, other affected Project Contractors, and the Contracting Officer shall arrange to meet with
883 interested Project Contractors to develop a mutually agreeable, written Project-wide process, which may be
884 amended as necessary separate and apart from this Contract. The goal of this process shall be to provide,
885 to the extent practicable, the means of mutual communication and

886 interaction regarding significant decisions concerning Project operation and management on a
887 real-time basis.

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

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

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

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

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

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

904 (d) Without limiting the contractual obligations of the Contracting Officer hereunder,
905 nothing in this Contract shall be construed to limit or constrain the Contracting Officer's ability to
906 communicate, coordinate, and cooperate with the Contractor or other interested stakeholders or to make
907 decisions in a timely fashion as needed to protect health, safety, physical integrity of structures or facilities, or
908 the Contracting Officer's ability to comply with applicable laws.

909 CHARGES FOR DELINQUENT PAYMENTS

910 20. (a) The Contractor shall be subject to interest, administrative and penalty charges on
911 delinquent installments or payments. When a payment is not received by the due date, the Contractor shall
912 pay an interest charge for each day the payment is delinquent beyond the due date. When a payment
913 becomes sixty (60) days delinquent, the Contractor shall pay an administrative charge to cover additional
914 costs of billing and processing the delinquent payment. When a payment is delinquent ninety (90) days or
915 more, the Contractor shall pay an additional penalty charge of six (6%) percent per year for each day the
916 payment is delinquent beyond the due date. Further, the Contractor shall pay any fees incurred for debt
917 collection services associated with a delinquent payment.

918 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in the
919 Federal Register by the Department of the Treasury for application to overdue payments, or the interest rate
920 of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation Project Act of
921 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due date and remain
922 fixed for the duration of the delinquent period.

923 (c) When a partial payment on a delinquent account is received, the amount received
924 shall be applied, first to the penalty, second to the administrative charges, third to the accrued interest, and

925 finally to the overdue payment.

926 EQUAL OPPORTUNITY

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

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

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

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

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

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

952 (f) In the event of the Contractor's noncompliance with the nondiscrimination clauses of
953 this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated,
954 or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government

955 contracts in accordance with procedures authorized in said amended Executive Order, and such other
956 sanctions may be imposed and remedies invoked as provided in said Executive Order, or by rule, regulation,
957 or order of the Secretary of Labor, or as otherwise provided by law.

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

967 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

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

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

980 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

981 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42
982 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
983 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as well as

984 with their respective implementing regulations and guidelines imposed by the U.S. Department of the Interior
985 and/or Bureau of Reclamation.

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

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

999 PRIVACY ACT COMPLIANCE

1000 24. (a) The Contractor shall comply with the Privacy Act of 1974 (5 U.S.C. 552a) (the
1001 Act) and the Department of the Interior rules and regulations under the Act (43 CFR 2.45 et seq.) in
1002 maintaining Landholder acreage certification and reporting records, required to be submitted to the
1003 Contractor for compliance with Sections 206 and 228 of the Reclamation Reform Act of 1982 (96 Stat.
1004 1266), and pursuant to 43 CFR 426.18.

1005 (b) With respect to the application and administration of the criminal penalty provisions
1006 of the Act (5 U.S.C. 552a(i)), the Contractor and the Contractor's employees responsible for maintaining
1007 the certification and reporting records referenced in (a) above are considered to be employees of the
1008 Department of the Interior. See 5 U.S.C. 552a(m).

1009 (c) The Contracting Officer or a designated representative shall provide the Contractor
1010 with current copies of the Interior Department Privacy Act regulations and the Bureau of Reclamation
1011 Federal Register Privacy Act System of Records Notice (Acreage Limitation--Interior, Reclamation-31)
1012 which govern the maintenance, safeguarding, and disclosure of information contained in the Landholder's
1013 certification and reporting records.

1014 (d) The Contracting Officer shall designate a full-time employee of the Bureau of
1015 Reclamation to be the System Manager who shall be responsible for making decisions on denials pursuant to

1016 43 CFR 2.61 and 2.64 amendment requests pursuant to 43 CFR 2.72. The Contractor is authorized to
1017 grant requests by individuals for access to their own records.

1018 (e) The Contractor shall forward promptly to the System Manager each proposed
1019 denial of access under 43 CFR 2.64; and each request for amendment of records filed under 43 CFR 2.71;
1020 notify the requester accordingly of such referral; and provide the System Manager with information and
1021 records necessary to prepare an appropriate response to the requester. These requirements do not apply to
1022 individuals seeking access to their own certification and reporting forms filed with the Contractor pursuant to
1023 43 CFR 426.18, unless the requester elects to cite the Privacy Act as a basis for the request.

1024 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

1025 25. In addition to all other payments to be made by the Contractor pursuant to this Contract, the
1026 Contractor shall pay to the United States, within sixty (60) days after receipt of a bill and detailed statement
1027 submitted by the Contracting Officer to the Contractor for such specific items of direct cost incurred by the
1028 United States for work requested by the Contractor associated with this Contract plus indirect costs in
1029 accordance with applicable Bureau of Reclamation policies and procedures. All such amounts referred to in
1030 this Article shall not exceed the amount agreed to in writing in advance by the Contractor. This Article shall
1031 not apply to costs for routine contract administration.

1032 WATER CONSERVATION

1033 26. (a) Prior to the delivery of water provided from or conveyed through Federally
1034 constructed or Federally financed facilities pursuant to this Contract, the Contractor shall be implementing an
1035 effective water conservation and efficiency program based on the Contractor's water conservation plan that
1036 has been determined by the Contracting Officer to meet the conservation and efficiency criteria for
1037 evaluating water conservation plans established under Federal law. The water conservation and efficiency
1038 program shall contain definite water conservation objectives, appropriate economically feasible water

1039 conservation measures, and time schedules for meeting those objectives. Continued Project Water delivery
1040 pursuant to this Contract shall be contingent upon the Contractor's continued implementation of such water
1041 conservation program. In the event the Contractor's water conservation plan or any revised water
1042 conservation plan completed pursuant to subdivision (d) of Article 26 of this Contract have not yet been
1043 determined by the Contracting Officer to meet such criteria, due to circumstances which the Contracting
1044 Officer determines are beyond the control of the Contractor, water deliveries shall be made under this
1045 Contract so long as the Contractor diligently works with the Contracting Officer to obtain such
1046 determination at the earliest practicable date, and thereafter the Contractor immediately begins implementing
1047 its water conservation and efficiency program in accordance with the time schedules therein.

1048 (b) Omitted.

1049 (c) The Contractor shall submit to the Contracting Officer a report on the status of its
1050 implementation of the water conservation plan on the reporting dates specified in the then existing
1051 conservation and efficiency criteria established under Federal law.

1052 (d) At five (5) -year intervals, the Contractor shall revise its water conservation plan to
1053 reflect the then current conservation and efficiency criteria for evaluating water conservation plans
1054 established under Federal law and submit such revised water management plan to the Contracting Officer
1055 for review and evaluation. The Contracting Officer will then determine if the water conservation plan meets
1056 Reclamation's then current conservation and efficiency criteria for evaluating water conservation plans
1057 established under Federal law.

1058 (e) If the Contractor is engaged in direct groundwater recharge, such activity shall be

1059 described in the Contractor's water conservation plan.

1060 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1061 27. Except as specifically provided in Article 17 of this Contract, the provisions of this Contract
1062 shall not be applicable to or affect non-project water or water rights now owned or hereafter acquired by
1063 the Contractor or any user of such water within the Contractor's Service Area. Any such water shall not be
1064 considered Project Water under this Contract. In addition, this Contract shall not be construed as limiting or
1065 curtailing any rights which the Contractor or any water user within the Contractor's Service Area acquires or
1066 has available under any other contract pursuant to Federal Reclamation law.

1067 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

1068 28. (a) The Operation and Maintenance of a portion of the Project facilities which serve the
1069 Contractor, and responsibility for funding a portion of the costs of such Operation and Maintenance, have
1070 been transferred to the Operating Non-Federal Entity by separate agreement between the United States and
1071 the Operating Non-Federal Entity. That separate agreement shall not interfere with or affect the rights or
1072 obligations of the Contractor or the United States hereunder.

1073 (b) The Contracting Officer has previously notified the Contractor in writing that the
1074 Operation and Maintenance of a portion of the Project facilities which serve the Contractor has been
1075 transferred to the Operating Non-Federal Entity, and therefore, the Contractor shall pay directly to the
1076 Operating Non-Federal Entity, or to any successor approved by the Contracting Officer under the terms
1077 and conditions of the separate agreement between the United States and the Operating

1078 Non-Federal Entity described in subdivision (a) of this Article, all rates, charges or assessments of any kind,
1079 including any assessment for reserve funds, which the Operating Non-Federal Entity or such successor
1080 determines, sets or establishes for (i) the Operation and Maintenance of the portion of the Project facilities
1081 operated and maintained by the Operating Non-Federal Entity or such successor, or (ii) the Friant Division's
1082 share of the operation, maintenance and replacement costs for physical works and appurtenances associated
1083 with the Tracy Pumping Plant, the Delta-Mendota Canal, the O'Neill Pumping/Generating Plant, the federal
1084 share of the O'Neill Forebay, the Mendota Pool, and the federal share of San Luis Unit joint use
1085 conveyance and conveyance pumping facilities. Such direct payments to the Operating Non-Federal Entity
1086 or such successor shall not relieve the Contractor of its obligation to pay directly to the United States the
1087 Contractor's share of the Project Rates, Charges, and Tiered Pricing Components except to the extent the
1088 Operating Non-Federal Entity collects payments on behalf of the United States in accordance with the
1089 separate agreement identified in subdivision (a) of this Article.

1090 (c) For so long as the Operation and Maintenance of any portion of the Project facilities
1091 serving the Contractor is performed by the Operating Non-Federal Entity, or any successor thereto, the
1092 Contracting Officer shall adjust those components of the Rates for Water Delivered under this Contract
1093 representing the cost associated with the activity being performed by the Operating Non-Federal Entity or
1094 its successor.

1095 (d) In the event the Operation and Maintenance of the Project facilities operated and
1096 maintained by the Operating Non-Federal Entity is re-assumed by the United States during the term of this
1097 Contract, the Contracting Officer shall so notify the Contractor, in writing, and present to the Contractor a

1098 revised Exhibit "B" which shall include the portion of the Rates to be paid by the Contractor for Project
1099 Water under this Contract representing the Operation and Maintenance costs of the portion of such Project
1100 facilities which have been re-assumed. The Contractor shall, thereafter, in the absence of written notification
1101 from the Contracting Officer to the contrary, pay the Rates, Charges, and Tiered Pricing Component(s)
1102 specified in the revised Exhibit "B" directly to the United States in compliance with Article 7 of this Contract.

1103 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1104 29. The expenditure or advance of any money or the performance of any obligation of the
1105 United States under this Contract shall be contingent upon appropriation or allotment of funds. Absence of
1106 appropriation or allotment of funds shall not relieve the Contractor from any obligations under this Contract.
1107 No liability shall accrue to the United States in case funds are not appropriated or allotted.

1108 BOOKS, RECORDS, AND REPORTS

1109 30. (a) The Contractor shall establish and maintain accounts and other books and records
1110 pertaining to administration of the terms and conditions of this Contract, including: the Contractor's financial
1111 transactions, water supply data, and Project land and right-of-way agreements; the water users' land-use
1112 (crop census), land ownership, land-leasing and water use data; and other matters that the Contracting
1113 Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such
1114 date or dates as the Contracting Officer may require. Subject to applicable Federal laws and regulations,
1115 each party to this Contract shall have the right during office hours to examine and make copies of the other
1116 party's books and records relating to matters covered by this Contract.

1117 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books, records,
1118 or other information shall be requested from the Contractor by the Contracting Officer unless such books,
1119 records, or information are reasonably related to the administration or performance of this Contract. Any
1120 such request shall allow the Contractor a reasonable period of time within which to provide the requested
1121 books, records, or information.

1122 (c) At such time as the Contractor provides information to the Contracting Officer

1123 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the Operating
1124 Non-Federal Entity.

1125 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1126 31. (a) The provisions of this Contract shall apply to and bind the successors and assigns of
1127 the parties hereto, but no assignment or transfer of this Contract or any right or interest therein shall be valid
1128 until approved in writing by the Contracting Officer.

1129 (b) The assignment of any right or interest in this Contract by either party shall not
1130 interfere with the rights or obligations of the other party to this Contract absent the written concurrence of
1131 said other party.

1132 (c) The Contracting Officer shall not unreasonably condition or withhold approval of
1133 any proposed assignment.

1134 SEVERABILITY

1135 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor (ii) a
1136 person or entity that receives Project Water from a party to a Project contract, nor (iii) an association or
1137 other form of organization whose primary function is to represent parties to Project contracts, brings an
1138 action in a court of competent jurisdiction challenging the legality or enforceability of a provision included in
1139 this Contract and said person, entity, association, or organization obtains a final court decision holding that
1140 such provision is legally invalid or unenforceable and the Contractor has not intervened in that lawsuit in
1141 support of the plaintiff(s), the parties to this Contract shall use their best efforts to (i) within thirty (30) days
1142 of the date of such final court decision identify by mutual agreement the provisions in this Contract which

1143 must be revised and (ii) within three (3) months thereafter promptly agree on the appropriate revision(s).
1144 The time periods specified above may be extended by mutual agreement of the parties. Pending the
1145 completion of the actions designated above, to the extent it can do so without violating any applicable
1146 provisions of law, the United States shall continue to make the quantities of Project Water specified in this
1147 Contract available to the Contractor pursuant to the provisions of this Contract which were not found to be
1148 legally invalid or unenforceable in the final court decision.

1149 RESOLUTION OF DISPUTES

1150 33. Should any dispute arise concerning any provisions of this Contract, or the parties' rights
1151 and obligations thereunder, the parties shall meet and confer in an attempt to resolve the dispute. Prior to
1152 the Contractor commencing any legal action, or the Contracting Officer referring any matter to Department
1153 of Justice, the party shall provide to the other party thirty (30) days' written notice of the intent to take such
1154 action; Provided, That such notice shall not be required where a delay in commencing an action would
1155 prejudice the interests of the party that intends to file suit. During the thirty (30) -day notice period, the
1156 Contractor and the Contracting Officer shall meet and confer in an attempt to resolve the dispute. Except as
1157 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the Contractor
1158 or the United States may have.

1159 OFFICIALS NOT TO BENEFIT

1160 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
1161 Contractor shall benefit from this Contract other than as a water user or landowner in the same manner as
1162 other water users or landowners.

1163 CHANGES IN CONTRACTOR'S SERVICE AREA

1164 35. (a) While this Contract is in effect, no change may be made in the Contractor's Service
1165 Area or boundaries, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
1166 except upon the Contracting Officer's written consent.

1167 (b) Within thirty (30) days of receipt of a request for such a change, the Contracting
1168 Officer will notify the Contractor of any additional information required by the Contracting Officer for
1169 processing said request, and both parties will meet to establish a mutually agreeable schedule for timely
1170 completion of the process. Such process will analyze whether the proposed change is likely to: (i) result in
1171 the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of the Contractor to pay
1172 for Project Water furnished under this Contract or to pay for any Federally-constructed facilities for which
1173 the Contractor is responsible; and (iii) have an impact on any Project Water rights applications, permits, or
1174 licenses. In addition, the Contracting Officer shall comply with the National Environmental Policy Act and
1175 the Endangered Species Act. The Contractor will be responsible for all costs incurred by the Contracting
1176 Officer in this process, and such costs will be paid in accordance with Article 25 of this Contract.

1177 FEDERAL LAWS

1178 36. By entering into this Contract, the Contractor does not waive its rights to contest the validity
1179 or application in connection with the performance of the terms and conditions of this Contract of any Federal
1180 law or regulation; Provided, That the Contractor agrees to comply with the terms and conditions of this
1181 Contract unless and until relief from application of such Federal law or regulation to the implementing
1182 provision of the Contract is granted by a court of competent jurisdiction.

1183 NOTICES

1184 37. Any notice, demand, or request authorized or required by this Contract shall be deemed to

1185 have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered to the Area
1186 Manager, South-Central California Area Office, 1243 "N" Street, Fresno, California 93721, and on behalf
1187 of the United States, when mailed, postage prepaid, or delivered to the Board of Directors of the Saucelito
1188 Irrigation District, PO Box 3858, Porterville, California 93258. The designation of the addressee or the
1189 address may be changed by notice given in the same manner as provided in this Article for other notices.

1190 CONFIRMATION OF CONTRACT

1191 38. The Contractor, after the execution of this Contract, shall promptly seek to secure a decree
1192 of a court of competent jurisdiction of the State of California, confirming the execution of this Contract. The
1193 Contractor shall furnish the United States a certified copy of the final decree, the validation proceedings, and
1194 all pertinent supporting records of the court approving and confirming this Contract, and decreeing and
1195 adjudging it to be lawful, valid, and binding on the Contractor.

1196 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
1197 year first above written.

THE UNITED STATES OF AMERICA

By: /s/ William H. Luce, Jr.
Acting Regional Director, Mid-Pacific Region
Bureau of Reclamation

(SEAL)

SAUCELITO IRRIGATION DISTRICT

By: /s/ Eric R. Merritt
President of the Board of Directors

Attest:

By: /s/ James A. Akins
Secretary of the Board of Directors
SAUC.WPD

EXHIBIT A

[Map or Description of Service Area]

Contract No. I75r-2604-LTR1

EXHIBIT B
[Initial Rates and Charges]