

CCAO 11-15-2019  
CCAO 11-20-2019  
CCAO 12-03-2019  
CCAO 12-11-2019  
CCAO 12-16-2019  
CCAO 01-08-2020  
CCAO 02-06-2020

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

CONTRACT BETWEEN THE UNITED STATES  
AND  
THE CITY OF ROSEVILLE  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITITES REPAYMENT

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble .....	1
	Explanatory Recitals.....	1
1	Definitions .....	7
2	Term of Contract .....	11
3	Water to be Made Available and Delivered to the Contractor .....	12
4	Time for Delivery of Water .....	16
5	Point of Diversion and Responsibility for Distribution of Water.....	17
6	Measurement of Water Within the Service Area.....	18
7	Rates, Method of Payment for Water and Accelerated Repayment of Facilities ..	20
8	Non-Interest Bearing Operation and Maintenance Deficits .....	28
9	Sales, Transfers, or Exchanges of Water .....	28
10	Application of Payments and Adjustments .....	30
11	Temporary Reductions--Return Flows.....	30
12	Constraints on the Availability of Water .....	31
13	Unavoidable Groundwater Percolation .....	32
14	Rules, Regulations and Determinations.....	32
15	Protection of Water and Air Quality.....	32
16	Water Acquired by the Contractor Other Than From the United States .....	33

Table of Contents - continued

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
17	Opinions and Determinations .....	35
18	Coordination and Cooperation.....	35
19	Charges for Delinquent Payments .....	37
20	Equal Employment Opportunity.....	37
21	General Obligation--Benefits Conditioned Upon Payment.....	39
22	Compliance With Civil Rights Laws and Regulations.....	39
23	Privacy Act Compliance.....	40
24	Contractor to Pay Certain Miscellaneous Costs .....	40
25	Water Conservation .....	40
26	Existing or Acquired Water or Water Rights .....	42
27	Operation and Maintenance by the Operating Non-Federal Entity .....	42
28	Contingent on Appropriation or Allotment of Funds .....	42
29	Books, Records, and Reports.....	43
30	Assignment Limited--Successors and Assigns Obligated .....	43
31	Severability .....	43
32	Resolution of Disputes.....	44
33	Officials Not to Benefit .....	45
34	Changes in Contractor's Service Area .....	45
35	Federal Laws.....	45
36	Notices .....	46
37	Certification of Nonsegregated Facilities .....	46
38	Medium for Transmitting Payment .....	46
39	Contract Drafting Considerations.....	46
40	Confirmation of Contract.....	46
	Signature Page .....	48
	Exhibit A – Map of Contractor’s Service Area	
	Exhibit B – Rates and Charges	
	Exhibit C - Existing Capital Obligation	

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

CONTRACT BETWEEN THE UNITED STATES  
AND  
THE CITY OF ROSEVILLE  
PROVIDING FOR PROJECT WATER SERVICE  
AND FACILITIES REPAYMENT

1           THIS CONTRACT, is made this 28<sup>TH</sup> day of FEBRUARY, 2020, in  
2   pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or  
3   supplementary thereto, including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844),  
4   as amended and supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented,  
5   June 21, 1963 (77 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050),  
6   as amended, Title XXXIV of the Act of October 30, 1992 (106 Stat. 4706), and the Water  
7   Infrastructure Improvements for the Nation Act (Public Law 114-322, 130 Stat. 1628), Section  
8   4011 (a-d) and (f) ("WIIN Act"), all collectively hereinafter referred to as Federal Reclamation  
9   law, between the UNITED STATES OF AMERICA, hereinafter referred to as the United States,  
10  represented by the officer executing this Contract, hereinafter referred to as the Contracting  
11  Officer, and the CITY OF ROSEVILLE, hereinafter referred to as the Contractor, a public  
12  agency of the State of California, duly organized, existing, and acting pursuant to the laws  
13  thereof,

14           WITNESSETH, That:

15                           EXPLANATORY RECITALS

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

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

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

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

27 [4<sup>th</sup>] WHEREAS, the Contractor and the United States entered into Contract  
28 No. 14-06-200-3474A, dated September 9, 1967, which contract was amended on  
29 November 30, 1976 , which established terms for the annual delivery of up to 32,000 af to the  
30 Contractor of Project Water from the American River Division from January 1, 1971, through  
31 December 31, 2010; and

32 [5<sup>th</sup>] WHEREAS, the United States and the Contractor entered into Contract Number  
33 14-06-200-3474A-IR1, and successive renewals of 14-06-200-3474A-IR1, hereinafter referred to  
34 as the Existing Contract, which established terms for the delivery of Project Water to the  
35 Contractor from the American River Division, in effect on the date the WIIN Act was enacted,  
36 and as may have been extended; and

37 [6<sup>th</sup>] WHEREAS, on December 16, 2016, the 114th Congress of the United States of  
38 America enacted the WIIN Act; and

39 [7<sup>th</sup>] WHEREAS, WIIN Act, Section 4011(a)(1) provides that “upon request of the  
40 contractor, the Secretary of the Interior shall convert any water service contract in effect on the  
41 date of enactment of this subtitle and between the United States and a water users’ association

42 [Contractor] to allow for prepayment of the repayment contract pursuant to paragraph (2) under  
43 mutually agreeable terms and conditions.”; and

44 [8th] WHEREAS, WIIN Act, Section 4011(a)(1) further provides that “the manner of  
45 conversion under this paragraph shall be as follows: (A) Water service contracts that were  
46 entered into under section (e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under  
47 this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat.  
48 1195)”; and “(B) Water service contracts that were entered under subsection (c)(2) of section 9  
49 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be  
50 converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).”; and

51 [9th] WHEREAS, WIIN Act, Section 4011(a)(4)(C) further provides all contracts  
52 entered into pursuant to WIIN Act, Section 4011(a)(1), (2), and (3) shall “not modify other water  
53 service, repayment, exchange and transfer contractual rights between the water users’ association  
54 [Contractor], and the Bureau of Reclamation, or any rights, obligations, or relationships of the  
55 water users’ association [Contractor] and their landowners as provided under State law.”; and

56 [10th] WHEREAS, WIIN Act, Section 4011(d)(3) and (4) provides that “implementation  
57 of the provisions of this subtitle shall not alter... (3) the priority of a water service or repayment  
58 contractor to receive water; or (4) except as expressly provided in this section, any obligations  
59 under the reclamation law, including the continuation of Restoration Fund charges pursuant to  
60 section 3407(d) (Public Law 102-575), of the water service and repayment contractors making  
61 prepayments pursuant to this section.”; and

62 [11th] WHEREAS, upon the request of the Contractor, the WIIN Act directs the  
63 Secretary to convert municipal and industrial (M&I) water service contracts into repayment

64 contracts, amend existing repayment contracts, and allow contractors to prepay their construction  
65 cost obligations pursuant to applicable Federal Reclamation law; and

66 [12th] WHEREAS, the Contractor requested that its Existing Contract be converted  
67 under the WIIN Act, and the United States and the Contractor have agreed to convert the  
68 Existing Contract into this repayment contract, consistent with the Federal Reclamation law; and

69 [13th] WHEREAS, consistent with the WIIN Act, in entering into this Contract, the  
70 parties do not intend to change or delete any terms or provisions of the Existing Contract except  
71 as expressly set forth in this Contract; and

72 [14<sup>th</sup>] WHEREAS, the United States has determined that the Contractor has fulfilled all  
73 of its obligations under the Existing Contract including the installation of facilities necessary to  
74 provide water to the Contractor at a rate of 150 cubic feet per second under Article 5(d) of the  
75 Existing Contract; and

76 [15<sup>th</sup>] WHEREAS, the Contractor has demonstrated to the satisfaction of the  
77 Contracting Officer that the Contractor has utilized the Project Water supplies available to it for  
78 reasonable and beneficial use and/or has demonstrated projected future demand for water use such  
79 that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use  
80 the quantity of Project Water to be made available to it pursuant to this Contract; and

81 [16<sup>th</sup>] WHEREAS, water obtained from the Project has been relied upon by urban areas  
82 within California for more than 50 years, and is considered by the Contractor as an essential  
83 portion of its water supply; and

84 [17<sup>th</sup>] WHEREAS, the economies of regions within the Project, including the  
85 Contractor's, depend upon the continued availability of water, including water service from the  
86 Project; and

87 [17.1] WHEREAS, in the California Bay-Delta Authority (CALFED) Programmatic  
88 Record of Decision, dated August 28, 2000, the United States and the State of California adopted  
89 a general target of continuously improving Delta water quality for all uses. The CALFED  
90 Agencies' target for providing safe, reliable, and affordable drinking water in a cost-effective  
91 way, is to achieve either: "(a) average concentrations at Clifton Court Forebay and other  
92 southern and central Delta drinking water intakes of 50 ug/L bromide and 3.0 mg/L total organic  
93 carbon, or (b) an equivalent level of public health protection using a cost-effective combination  
94 of alternative source waters, source control and treatment technologies;" and

95 [18<sup>th</sup>] WHEREAS, the Secretary of the Interior (Secretary) intends through  
96 coordination, cooperation, and partnerships to pursue measures to improve water supply, water  
97 quality, and reliability of the Project for all Project purposes; and

98 [18.1] WHEREAS, the Contractor and the water users in its Service Area have improved  
99 and will continue to improve water use efficiency through water conservation, water reclamation,  
100 and other Best Management Practices; however, implementing these measures have reduced and  
101 continue to reduce the ability of the Contractor and the water users in its Service Area to  
102 withstand a Condition of Shortage; and

103 [19<sup>th</sup>] WHEREAS, the mutual goals of the United States and the Contractor include: to  
104 provide for reliable Project Water supplies; to control costs of those supplies; to achieve  
105 repayment of the Project as required by law; to guard reasonably against Project Water  
106 shortages; to achieve a reasonable balance among competing demands for use of Project Water;  
107 and to comply with all applicable environmental statutes, all consistent with the legal obligations  
108 of the United States relative to the Project; and

109 [20<sup>th</sup>] WHEREAS, the parties intend by this Contract to develop a more cooperative  
110 relationship in order to achieve their mutual goals; and

111 [20.1] WHEREAS, the Contractor is a signatory to the Water Forum Agreement, dated  
112 April 14, 2000, which has the co-equal objectives to (1) provide a reliable and safe water supply  
113 for the Sacramento region's economic health and planned development through the year 2030,  
114 and (2) preserve the fishery, wildlife, recreational and aesthetic values of the lower American  
115 River; and

116 [20.2] WHEREAS, the Contracting Officer is in support of the co-equal objectives of the  
117 Water Forum Agreement and intends to work cooperatively with the Contractor to investigate  
118 actions that they could take to implement the objectives of the Water Forum Agreement, which,  
119 if agreed to, would be the subject of a separate agreement between them; and

120 [20.3] WHEREAS, the Contractor has utilized or may utilize transfers, contract  
121 assignments, rescheduling and conveyance of non-project water under this Contract as tools to  
122 minimize the impacts of Conditions of Shortage and to maximize the beneficial use of Project  
123 Water; and

124 [20.4] WHEREAS, the parties desire and intend that this Contract not provide a  
125 disincentive to the Contractor in continuing to carry out the beneficial activities set out  
126 immediately above, and

127 [21<sup>st</sup>] WHEREAS, the United States and the Contractor agree that this Contract  
128 complies with WIIN Act, Section 4011.

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

131



132 DEFINITIONS

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

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

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

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

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

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

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

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

154 (h-i) Omitted;

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

166 (k-l) Omitted;

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

170 (n) Omitted;

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

175 Water uses established before March 1, 2020 and known to the Contracting Officer and the  
176 Contractor are deemed to be authorized uses of M&I Water;

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

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

182 (r) Omitted;

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

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

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

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

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

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

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

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

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

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

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

213 (dd) "Additional Capital Obligation" shall mean construction costs or other  
214 capitalized costs incurred after March 1, 2020 or not reflected in the Existing Capital Obligation  
215 as defined herein and in accordance with WIIN Act, Section 4011, subsection (a)(3)(B);

216 (ee) "Existing Capital Obligation" shall mean the remaining amount of  
217 construction costs or other capitalized costs allocable to the Contractor as described in Section  
218 4011, subsection (a)(3)(A) of the WIIN Act, and as identified in the Central Valley Project  
219 Irrigation Water Rates and/or Municipal and Industrial Water Rates, respectively, in the Final  
220 2020 Ratebooks, as adjusted to reflect payments not reflected in such schedule. The Contracting  
221 Officer has computed the Existing Capital Obligation and such amount is set forth in Exhibit C,  
222 which is incorporated herein by reference; and

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

225 TERM OF CONTRACT

226 2. (a) This Contract shall be effective March 1, 2020 ("Effective Date") and  
227 shall continue so long as the Contractor pays applicable Rates and Charges under this Contract,  
228 consistent with Section 9(d) or 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195) as applicable,  
229 and applicable law;

230 (1) Provided, That the Contracting Officer shall not seek to terminate  
231 this Contract for failure to fully or timely pay applicable Rates and Charges by the Contactor,  
232 unless the Contracting Officer has first provided at least sixty (60) calendar days written notice  
233 to the Contractor of such failure to pay and Contractor has failed to cure such failure to pay, or to  
234 diligently commence and maintain full curative payments satisfactory to the Contracting Officer  
235 within the sixty (60) calendar days' notice period;

236 (2) Provided further, That the Contracting Officer shall not seek to  
237 suspend making water available or declaring Water Made Available pursuant to this Contract for  
238 non-compliance by the Contractor with the terms of this Contract or Federal law, unless the  
239 Contracting Officer has first provided at least thirty (30) calendar days written notice to the  
240 Contractor and the Contractor has failed to cure such non-compliance, or to diligently commence  
241 curative actions satisfactory to the Contracting Officer for a non-compliance that cannot be fully  
242 cured within the thirty (30) calendar days' notice period. If the Contracting Officer has  
243 suspended making water available pursuant to this paragraph, upon cure of such noncompliance  
244 satisfactory to the Contracting Officer, the Contracting Officer shall resume making water  
245 available and declaring Water Made Available pursuant to this Contract;

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

248 (b) Upon complete payment of the Repayment Obligation by the Contractor,  
249 and notwithstanding any Additional Capital Obligation that may later be established, the acreage  
250 limitations, reporting, and the Full Cost pricing provisions of the Reclamation Reform Act of  
251 1982 shall no longer be applicable to the Contractor pursuant to this Contract.

252 (c) Omitted.

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

256 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

257 3. (a) During each Year, consistent with all applicable State water rights,  
258 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of  
259 this Contract, the Contracting Officer shall make available for delivery to the Contractor up  
260 to 32,000 acre-feet of Project Water for M&I purposes. Water Delivered to the Contractor in  
261 accordance with this subdivision shall be scheduled and paid for pursuant to the provisions of  
262 Articles 4 and 7 of this Contract.

263 (b) Because the capacity of the Project to deliver Project Water has been  
264 constrained in recent years and may be constrained in the future due to many factors including  
265 hydrologic conditions and implementation of Federal and State laws, the likelihood of the  
266 Contractor actually receiving the amount of Project Water set out in subdivision (a) of this  
267 Article in any given Year is uncertain. The Contracting Officer's modeling referenced in the  
268 programmatic environmental impact statement required by Section 3409 of the CVPIA,  
269 projected that the Contract Total set forth in this Contract will not be available to the Contractor  
270 in many years. During the most recent five years, the Recent Historic Average of Water Made

271 Available to the Contractor was 30,400 acre feet. Nothing in subdivision (b) of this Article shall  
272 affect the rights and obligations of the parties under any provision of this Contract.

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

275 (d) The Contractor shall make reasonable and beneficial use of all water  
276 furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect, or in lieu),  
277 ground-water banking programs, surface water storage programs, and other similar programs  
278 utilizing Project Water or other water furnished pursuant to this Contract conducted within the  
279 Contractor's Service Area which are consistent with applicable State law and result in use  
280 consistent with Federal Reclamation law will be allowed; Provided, That any direct recharge  
281 program(s) is (are) described in the Contractor's water conservation plan submitted pursuant to  
282 Article 25 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,  
284 the quantity of Delivered Water is demonstrated to be reasonable for such uses and in  
285 compliance with Federal Reclamation law. Ground-water recharge programs, groundwater  
286 banking programs, surface water storage programs, and other similar programs utilizing Project  
287 Water or other water furnished pursuant to this Contract conducted outside the Contractor's  
288 Service Area may be permitted upon written approval of the Contracting Officer, which approval  
289 will be based upon environmental documentation, Project Water rights, and Project operational  
290 concerns. The Contracting Officer will address such concerns in regulations, policies, or  
291 guidelines.

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

294 of the Existing Contract undertaken pursuant to Section 7 of the Endangered Species Act of 1973  
295 (ESA), as amended, that are within the Contractor's legal authority to implement. The Existing  
296 Contract, which evidences in excess of 30 years of diversions for M&I purposes of the quantities  
297 of water provided in subdivision (a) of Article 3 of this Contract, will be considered in  
298 developing an appropriate baseline for any required environmental review prepared by  
299 Reclamation regarding execution of this Contract. Nothing herein shall be construed to prevent  
300 the Contractor from challenging or seeking judicial relief in a court of competent jurisdiction  
301 with respect to any biological opinion or other environmental documentation referred to in this  
302 Article.

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



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

323 (h) The Contractor's right pursuant to Federal Reclamation law and applicable  
324 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract shall  
325 not be disturbed, and this Contract shall continue so long as the Contractor pays applicable Rates  
326 and Charges under this Contract consistent with Section 9(d) or 9(c)(1) of the Act of August 4,  
327 1939 (53 Stat. 1195) as applicable, and applicable law. Nothing in the preceding sentence shall  
328 affect the Contracting Officer's ability to impose shortages under Article 11 or subdivision (b) of  
329 Article 12 of this Contract.

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

334 (j) The Contracting Officer shall make reasonable efforts to protect the water  
335 rights necessary for the Project and to provide the water available under this Contract. The  
336 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the  
337 extent permitted by law, in administrative proceedings related to the Project Water rights;  
338 Provided, That the Contracting Officer retains the right to object to the substance of the

339 Contractor's position in such a proceeding; Provided further, That in such proceedings the  
340 Contracting Officer shall recognize the Contractor has a legal right under the terms of this  
341 Contract to use Project Water.

342 TIME FOR DELIVERY OF WATER

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

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

359 (c) The Contractor shall not schedule Project Water in excess of the quantity  
360 of Project Water the Contractor intends to put to reasonable and beneficial use within the

361 Contractor's Service Area or to sell, transfer, or exchange pursuant to Article 9 of this Contract  
362 during any Year.

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

368 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

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

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

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

379 (d) All Water Delivered to the Contractor pursuant to this Contract shall be  
380 measured and recorded with equipment furnished, installed, operated, and maintained by the  
381 United States, or other appropriate entity as designated by the Contracting Officer (hereafter  
382 "other appropriate entity") at the point or points of delivery established pursuant to  
383 subdivision (a) of this Article. Upon the request of either party to this Contract, the Contracting

384 Officer shall investigate, or cause to be investigated, the accuracy of such measurements and  
385 shall take any necessary steps to adjust any errors appearing therein. For any period of time  
386 when accurate measurements have not been made, the Contracting Officer shall consult with the  
387 Contractor prior to making a final determination of the quantity delivered for that period of time.

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

401 MEASUREMENT OF WATER WITHIN THE SERVICE AREA

402 6. (a) The Contractor shall ensure that, unless the Contractor establishes an  
403 alternative measurement program satisfactory to the Contracting Officer, all surface water  
404 delivered for M&I purposes is measured at each M&I service connection. The water measuring  
405 devices or water measuring methods of comparable effectiveness must be acceptable to the  
406 Contracting Officer. The Contractor shall be responsible for installing, operating, and

407 maintaining and repairing all such measuring devices and implementing all such water  
408 measuring methods at no cost to the United States. The Contractor shall use the information  
409 obtained from such water measuring devices or water measuring methods to ensure its proper  
410 management of the water, to bill water users for water delivered by the Contractor; and, if  
411 applicable, to record water delivered for M&I purposes by customer class as defined in the  
412 Contractor's water conservation plan provided for in Article 25 of this Contract. Nothing herein  
413 contained, however, shall preclude the Contractor from establishing and collecting any charges,  
414 assessments, or other revenues authorized by California law. The Contractor shall include a  
415 summary of all its annual surface water deliveries in the annual report described in subdivision  
416 (c) of Article 25.

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

430 commence to negotiate in good faith how, and the earliest practicable date by which, the  
431 Contractor shall modify said measuring devices and/or measuring methods as required by the  
432 Contracting Officer to ensure compliance with subdivision (a) of this Article.

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

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

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

441 RATES, METHOD OF PAYMENT FOR WATER  
442 AND ACCELERATED REPAYMENT OF FACILITIES

443 7. (a) Notwithstanding the Contractor's full prepayment of the Repayment  
444 Obligation pursuant to Section 4011, subsection (a)(3)(A) of the WIIN Act, as set forth in  
445 Exhibit C, and any payments required pursuant to Section 4011, subsection (b) of the WIIN Act,  
446 to reflect the adjustment for the final cost allocation as described in this Article, subsection (b),  
447 the Contractor's Project construction and other cost obligations shall be determined in  
448 accordance with: (i) the Secretary's ratesetting policy for Irrigation Water adopted in 1988 and  
449 the Secretary's then-existing ratesetting policy for M&I Water, consistent with the WIIN Act,  
450 and such ratesetting policies shall be amended, modified, or superseded only through a public  
451 notice and comment procedure; (ii) applicable Federal Reclamation law and associated rules and  
452 regulations, or policies; and (iii) other applicable provisions of this Contract. Payments shall be  
453 made by cash transaction, electronic funds transfer, or any other mechanism as may be agreed to

454 in writing by the Contractor and the Contracting Officer. The Rates, Charges and Tiered Pricing  
455 Component applicable to the Contractor upon execution of this Contract are set forth in Exhibit  
456 "B," as may be revised annually.

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

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

465 (A) The amount due and payable to the United States, pursuant  
466 to the WIIN Act, shall be the Repayment Obligation. The Repayment Obligation has been  
467 computed by the Contracting Officer in a manner consistent with the WIIN Act and is set forth  
468 as a lump sum payment as set forth in Exhibit C. The Repayment Obligation is due in lump sum  
469 within 60 days of the effective date of this Contract as provided by the WIIN Act.

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

473 (B) Additional Capital Obligations that are not reflected in the  
474 schedules referenced in Exhibit C and are properly assignable to the Contractor shall be repaid as  
475 prescribed by the WIIN Act without interest except as required by law. Consistent with Federal  
476 Reclamation law, interest shall continue to accrue on the M&I portion of the Additional Capital

477 Obligation assigned to the Contractor until such costs are paid. Increases or decreases in the  
478 Additional Capital Obligation assigned to the Contractor caused solely by annual adjustment of  
479 the Additional Capital Obligation assigned to each Project Contractor by the Secretary shall not  
480 be considered in determining the amounts to be paid pursuant to this subdivision (a)(2)(B),  
481 however, such increases or decreases will be considered under subdivision (b) of this Article. A  
482 separate agreement shall be established by the Contractor and the Contracting Officer to  
483 accomplish repayment of the Additional Capital Obligation assigned to the Contractor within the  
484 timeframe prescribed by the WIIN Act, subject to the following:

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

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

497 (b) In the event that the final cost allocation referenced in Section 4011(b) of  
498 the WIIN Act determines that the costs properly assignable to the Contractor are greater than  
499 what has been paid by the Contractor, the Contractor shall be obligated to pay the remaining



500 allocated costs. The term of such additional repayment contract shall be not less than one (1)  
501 year and not more than ten (10) years, however, mutually agreeable provisions regarding the rate  
502 of repayment of such amount may be developed by the Contractor and Contracting Officer. In  
503 the event that the final cost allocation indicates that the costs properly assignable to the  
504 Contractor are less than what the Contractor has paid, the Contracting Officer shall credit such  
505 overpayment as an offset against any outstanding or future obligations of the Contractor, with the  
506 exception of Restoration Fund charges pursuant to Section 3407(d) of Public Law 102-575.

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

509 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall  
510 provide the Contractor an estimate of the Charges for Project Water that will be applied to the  
511 period October 1, of the current Calendar Year, through September 30, of the following Calendar  
512 Year, and the basis for such estimate. The Contractor shall be allowed not less than two months  
513 to review and comment on such estimates. On or before September 15 of each Calendar Year,  
514 the Contracting Officer shall notify the Contractor in writing of the Charges to be in effect during  
515 the period October 1 of the current Calendar Year, through September 30, of the following  
516 Calendar Year, and such notification shall revise Exhibit "B".

517 (2) Prior to October 1 of each Calendar Year, the Contracting Officer  
518 shall make available to the Contractor an estimate of the Rates and Tiered Pricing Component  
519 for Project Water for the following Year and the computations and cost allocations upon which  
520 those Rates are based. The Contractor shall be allowed not less than two months to review and  
521 comment on such computations and cost allocations. By December 31 of each Calendar Year,

522 the Contracting Officer shall provide the Contractor with the final Rates and Tiered Pricing  
523 Component to be in effect for the upcoming Year, and such notification shall revise Exhibit "B".

524 (d) At the time the Contractor submits the initial schedule for the delivery of  
525 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the  
526 Contractor shall make an advance payment to the United States equal to the total amount payable  
527 pursuant to the applicable Rate(s) set under subdivision (a) of this Article, for the Project Water  
528 scheduled to be delivered pursuant to this Contract during the first two calendar months of the  
529 Year. Before the end of the first month and before the end of each calendar month thereafter, the  
530 Contractor shall make an advance payment to the United States, at the Rate(s) set under  
531 subdivision (a) of this Article, for the Water Scheduled to be delivered pursuant to this Contract  
532 during the second month immediately following. Adjustments between advance payments for  
533 Water Scheduled and payments at Rates due for Water Delivered shall be made before the end of  
534 the following month; Provided, That any revised schedule submitted by the Contractor pursuant  
535 to Article 4 of this Contract which increases the amount of Water Delivered pursuant to this  
536 Contract during any month shall be accompanied with appropriate advance payment, at the Rates  
537 then in effect, to assure that Project Water is not delivered to the Contractor in advance of such  
538 payment. In any month in which the quantity of Water Delivered to the Contractor pursuant to  
539 this Contract equals the quantity of Water Scheduled and paid for by the Contractor, no  
540 additional Project Water shall be delivered to the Contractor unless and until an advance  
541 payment at the Rates then in effect for such additional Project Water is made. Final adjustment  
542 between the advance payments for the Water Scheduled and payments for the quantities of Water  
543 Delivered during each Year pursuant to this Contract shall be made as soon as practicable but no  
544 later than April 30th of the following Year, or 60 days after the delivery of Project Water carried

545 over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the last  
546 day of February.

547 (e) The Contractor shall also make a payment in addition to the Rate(s) in  
548 subdivision (d) of this Article to the United States for Water Delivered, at the Charges and the  
549 appropriate Tiered Pricing Component then in effect, before the end of the month following the  
550 month of delivery. The payments shall be consistent with the quantities of M&I Water Delivered  
551 as shown in the water delivery report for the subject month prepared by the Contracting Officer.  
552 The water delivery report shall be deemed a bill for the payment of Charges and the applicable  
553 Tiered Pricing Component for Water Delivered. Adjustment for overpayment or underpayment  
554 of Charges shall be made through the adjustment of payments due to the United States for  
555 Charges for the next month. Any amount to be paid for past due payment of Charges and the  
556 Tiered Pricing Component shall be computed pursuant to Article 19 of this Contract.

557 (f) The Contractor shall pay for any Water Delivered under subdivision (a),  
558 (f), or (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to  
559 applicable statutes, associated regulations, any applicable provisions of guidelines or ratesetting  
560 policies; Provided, That the Rate for Water Delivered under subdivision (f) of Article 3 of this  
561 Contract shall be no more than the otherwise applicable Rate for M&I Water under subdivision  
562 (a) of this Article.

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

565 (h) All revenues received by the United States from the Contractor relating to  
566 the delivery of Project Water or the delivery of non-Project water through Project facilities shall

567 be allocated and applied in accordance with Federal Reclamation law and the associated rules or  
568 regulations, and the then-current Project ratesetting policy for M&I Water.

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

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

584 (k) 1. Beginning at such time as deliveries of Project Water in a Year exceed 80  
585 percent of the Contract Total, then before the end of the month following the month of delivery  
586 the Contractor shall make an additional payment to the United States equal to the applicable  
587 Tiered Pricing Component. The Tiered Pricing Component for the amount of Water Delivered  
588 in excess of 80 percent of the Contract Total, but less than or equal to 90 percent of the Contract  
589 Total, shall equal one-half of the difference between the Rate established under subdivision (a)

590 of this Article and the M&I Full Cost Water Rate. The Tiered Pricing Component for the  
591 amount of Water Delivered which exceeds 90 percent of the Contract Total shall equal the  
592 difference between (i) the Rate established under subdivision (a) of this Article and (ii) the M&I  
593 Full Cost Water Rate.

594 (2) Omitted.

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

600 (l) Rates under the respective ratesetting policies will be established to  
601 recover only reimbursable O&M (including any deficits) and capital costs of the Project, as those  
602 terms are used in the then-current Project ratesetting policies, and interest, where appropriate,  
603 except in instances where a minimum Rate is applicable in accordance with the relevant Project  
604 ratesetting policy. Changes of significance in practices which implement the Contracting  
605 Officer's ratesetting policies will not be implemented until the Contracting Officer has provided  
606 the Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

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

612 (n) Omitted.

613 (o) Omitted.

614 NON-INTEREST BEARING OPERATION AND MAINTENANCE DEFICITS

615 8. Omitted.

616 SALES, TRANSFERS, OR EXCHANGES OF WATER

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

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

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

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

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

659                                   APPLICATION OF PAYMENTS AND ADJUSTMENTS

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

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

676                                   TEMPORARY REDUCTIONS--RETURN FLOWS

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



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

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

699 CONSTRAINTS ON THE AVAILABILITY OF WATER

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

705 (b) If there is a Condition of Shortage because of inaccurate runoff forecasting  
706 or other similar operational errors affecting the Project; drought and other physical or natural  
707 causes beyond the control of the Contracting Officer; or actions taken by the Contracting Officer  
708 to meet current and future legal obligations then, except as provided in subdivision (a) of Article

709 17 of this Contract, no liability shall accrue against the United States or any of its officers,  
710 agents, or employees for any damage, direct or indirect, arising therefrom.

711 (c) Omitted.

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

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

722 UNAVOIDABLE GROUNDWATER PERCOLATION

723 13. Omitted.

724 RULES, REGULATIONS AND DETERMINATIONS

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

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

734 PROTECTION OF WATER AND AIR QUALITY

735 15. (a) The United States will care for, operate and maintain reserved works in a  
736 manner that preserves the quality of the water at the highest level possible as determined by the  
737 Contracting Officer. The United States does not warrant the quality of the water delivered to the

738 Contractor and is under no obligation to furnish or construct water treatment facilities to  
739 maintain or improve the quality of water delivered to the Contractor.

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

747 WATER ACQUIRED BY THE CONTRACTOR  
748 OTHER THAN FROM THE UNITED STATES

749 16. (a) Omitted.

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

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

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

765 available to other Project Contractors; (iii) interfere with the delivery of contractual water  
766 entitlements to any other Project Contractors; or (iv) interfere with the physical maintenance of  
767 the Project facilities; Provided, that nothing in this Article is intended to preclude the United  
768 States from passing the Contractor's water rights water through Project storage facilities to the  
769 extent required to satisfy the Contractor's water rights that are senior to those of the Project  
770 under the applicable provisions of California water law. Provided further, that the United States  
771 has determined that the delivery of non-Project water in and through Project facilities pursuant to  
772 Warren Act Contract No. 02-WC-20-2217 between the United States and the Contractor, as it  
773 now exists and may be amended, extended, or renewed in the future, satisfies the requirements of  
774 this Article.

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

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

785 (5) After Project purposes are met, as determined by the Contracting  
786 Officer, the United States and the Contractor shall share priority to utilize the remaining capacity  
787 of the facilities declared to be available by the Contracting Officer for conveyance and

788 transportation of non-Project water prior to any such remaining capacity being made available to  
789 non-Project Contractors.

790 OPINIONS AND DETERMINATIONS

791 17. (a) Where the terms of this Contract provide for actions to be based upon the  
792 opinion or determination of either party to this Contract, said terms shall not be construed as  
793 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or  
794 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly  
795 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,  
796 or unreasonable opinion or determination. Each opinion or determination by either party shall be  
797 provided in a timely manner. Nothing in subdivision (a) of Article 17 of this Contract is  
798 intended to or shall affect or alter the standard of judicial review applicable under Federal law to  
799 any opinion or determination implementing a specific provision of Federal law embodied in  
800 statute or regulation.

801 COORDINATION AND COOPERATION

802 18. (a) In order to further their mutual goals and objectives, the Contracting  
803 Officer and the Contractor shall communicate, coordinate, and cooperate with each other, and  
804 with other affected Project Contractors, in order to improve the operation and management of the  
805 Project. The communication, coordination, and cooperation regarding operations and  
806 management shall include, but not be limited to, any action which will or may materially affect  
807 the quantity or quality of Project Water supply, the allocation of Project Water supply, and  
808 Project financial matters including, but not limited to, budget issues. The communication,  
809 coordination, and cooperation provided for hereunder shall extend to all provisions of this

810 Contract. Each party shall retain exclusive decision making authority for all actions, opinion,  
811 and determinations to be made by the respective party.

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

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

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

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

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

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

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

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

841 CHARGES FOR DELINQUENT PAYMENTS

842 19. (a) The Contractor shall be subject to interest, administrative and penalty  
843 charges on delinquent payments. If a payment is not received by the due date, the Contractor  
844 shall pay an interest charge on the delinquent payment for each day the payment is delinquent  
845 beyond the due date. If a payment becomes 60 days delinquent, the Contractor shall pay, in  
846 addition to the interest charge, an administrative charge to cover additional costs of billing and  
847 processing the delinquent payment. If a payment is delinquent 90 days or more, the Contractor  
848 shall pay, in addition to the interest and administrative charges, a penalty charge for each day the  
849 payment is delinquent beyond the due date, based on the remaining balance of the payment due  
850 at the rate of 6 percent per year. The Contractor shall also pay any fees incurred for debt  
851 collection services associated with a delinquent payment.

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

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

860 EQUAL EMPLOYMENT OPPORTUNITY

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

862 (a) The Contractor will not discriminate against any employee or applicant for  
863 employment because of race, color, religion, sex, sexual orientation, gender identity, or national  
864 origin. The Contractor will take affirmative action to ensure that applicants are employed, and

865 that employees are treated during employment, without regard to their race, color, religion, sex,  
866 sexual orientation, gender identity, or national origin. Such action shall include, but not be  
867 limited to, the following: employment, upgrading, demotion, or transfer; recruitment or  
868 recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and  
869 selection for training, including apprenticeship. The Contractor agrees to post in conspicuous  
870 places, available to employees and applicants for employment, notices to be provided by the  
871 Contracting Officer setting forth the provisions of this nondiscrimination clause.

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

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

886 (d) The Contractor will send to each labor union or representative of workers  
887 with which it has a collective bargaining agreement or other contract or understanding, a notice,  
888 to be provided by the Contracting Officer, advising the labor union or workers' representative of  
889 the Contractor's commitments under Section 202 of Executive Order 11246 of September 24,  
890 1965, and shall post copies of the notice in conspicuous places available to employees and  
891 applicants for employment.

892 (e) The Contractor will comply with all provisions of Executive Order No.  
893 11246 of Sept. 24, 1965, as amended, and of the rules, regulations, and relevant orders of the  
894 Secretary of Labor.

895 (f) The Contractor will furnish all information and reports required by  
896 amended Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and  
897 orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records,  
898 and accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation  
899 to ascertain compliance with such rules, regulations, and orders.

900 (g) In the event of the Contractor's noncompliance with the nondiscrimination  
901 clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be  
902 canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared  
903 ineligible for further Government contracts in accordance with procedures authorized in  
904 amended Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be



905 imposed and remedies invoked as provided in Executive Order No. 11246 of September 24,  
906 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

907 (h) The Contractor will include the provisions of paragraphs (a) through (h) in  
908 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
909 Secretary of Labor issued pursuant to Section 204 of amended Executive Order No 11246 of  
910 September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor.  
911 The Contractor will take such action with respect to any subcontract or purchase order as may be  
912 directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions  
913 for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or  
914 is threatened with, litigation with a subcontractor or vendor as a result of such direction, the  
915 Contractor may request the United States to enter into such litigation to protect the interests of  
916 the United States.

917 GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

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

922 (b) The payment of charges becoming due pursuant to this Contract is a  
923 condition precedent to receiving benefits under this Contract. The United States shall not make  
924 water available to the Contractor through Project facilities during any period in which the  
925 Contractor is in arrears in the advance payment of water rates due the United States. The  
926 Contractor shall not deliver water under the terms and Conditions of this Contract for lands or  
927 parties that are in arrears in the advance payment of water rates as levied or established by the  
928 Contractor.

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

931 COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

932 22. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964  
933 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
934 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135,  
935 Title III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub.  
936 L. 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the  
937 applicable implementing regulations and any guidelines imposed by the U.S. Department of the  
938 Interior and/or Bureau of Reclamation.

939 (b) These statutes prohibit any person in the United States from being  
940 excluded from participation in, being denied the benefits of, or being otherwise subjected to  
941 discrimination under any program or activity receiving financial assistance from the Bureau of

942 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this  
943 Contract, the Contractor agrees to immediately take any measures necessary to implement this  
944 obligation, including permitting officials of the United States to inspect premises, programs, and  
945 documents.

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

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

956 PRIVACY ACT COMPLIANCE

957 23. Omitted.

958 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

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

967 WATER CONSERVATION

968 25. (a) Prior to the delivery of water provided from or conveyed through federally  
969 constructed or federally financed facilities pursuant to this Contract, the Contractor shall develop  
970 a water conservation plan, as required by subsection 210(b) of the Reclamation Reform Act of  
971 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

972 Additionally, an effective water conservation and efficiency program shall be based on the  
973 Contractor's water conservation plan that has been determined by the Contracting Officer to meet  
974 the conservation and efficiency criteria for evaluating water conservation plans established under  
975 Federal law. The water conservation and efficiency program shall contain definite water  
976 conservation objectives, appropriate economically feasible water conservation measures, and  
977 time schedules for meeting those objectives. Continued Project Water delivery pursuant to this  
978 Contract shall be contingent upon the Contractor's continued implementation of such water  
979 conservation program. In the event the Contractor's water conservation plan or any revised water  
980 conservation plan completed pursuant to subdivision (d) of Article 25 of this Contract have not  
981 yet been determined by the Contracting Officer to meet such criteria, due to circumstances which  
982 the Contracting Officer determines are beyond the control of the Contractor, water deliveries  
983 shall be made under this Contract so long as the Contractor diligently works with the Contracting  
984 Officer to obtain such determination at the earliest practicable date, and thereafter the Contractor  
985 immediately begins implementing its water conservation and efficiency program in accordance  
986 with the time schedules therein.

987 (b) Should the amount of M&I Water delivered pursuant to subdivision (a)  
988 of Article 3 of this Contract equal or exceed 2,000 acre-feet per Year, the Contractor shall  
989 implement the Best Management Practices identified by the time frames issued by the Mid-  
990 Pacific Region's then-existing conservation and efficiency criteria for such M&I Water unless  
991 any such practice is determined by the Contracting Officer to be inappropriate for the Contractor.

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

995 (d) Prior to the expiration of the currently approved water conservation plan,  
996 and thereafter at five-year intervals, the Contractor shall revise its water conservation plan to  
997 reflect the then-existing conservation and efficiency criteria for evaluating water conservation  
998 plans established under Federal law and submit such revised water conservation plan to the  
999 Contracting Officer for review and evaluation. The Contracting Officer will then determine if  
1000 the water conservation plan meets the Bureau of Reclamation's then-existing conservation and  
1001 efficiency criteria for evaluating water conservation plans established under Federal law.

1002 (e) If the Contractor is engaged in direct ground-water recharge, such activity  
1003 shall be described in the Contractor's water conservation plan.

1004 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

1005 26. Except as specifically provided in Article 16 of this Contract, the provisions of  
1006 this Contract shall not be applicable to or affect non-Project water or water rights now owned or  
1007 hereafter acquired by the Contractor or any user of such water within the Contractor's Service  
1008 Area. Any such water shall not be considered Project Water under this Contract. In addition,  
1009 this Contract shall not be construed as limiting or curtailing any rights which the Contractor or  
1010 any water user within the Contractor's Service Area acquires or has available under any other  
1011 contract pursuant to Federal Reclamation law.

1012 OPERATION AND MAINTENANCE BY THE OPERATING NON-FEDERAL ENTITY

1013 27. Omitted.

1014 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

1015 28. The expenditure or advance of any money or the performance of any obligation of  
1016 the United States under this Contract shall be contingent upon appropriation or allotment of  
1017 funds. Absence of appropriation or allotment of funds shall not relieve the Contractor from any  
1018 obligations under this Contract. No liability shall accrue to the United States in case funds are  
1019 not appropriated or allotted.

1020

BOOKS, RECORDS, AND REPORTS

1021           29.   (a)   The Contractor shall establish and maintain accounts and other books and  
1022 records pertaining to administration of the terms and conditions of this Contract, including the  
1023 Contractor's financial transactions; water supply data; project operation, maintenance, and  
1024 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop  
1025 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting  
1026 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on  
1027 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws  
1028 and regulations, each party to this Contract shall have the right during office hours to examine  
1029 and make copies of the other party's books and records relating to matters covered by this  
1030 Contract.

1031                   (b)   Notwithstanding the provisions of subdivision (a) of this Article, no  
1032 books, records, or other information shall be requested from the Contractor by the Contracting  
1033 Officer unless such books, records, or information are reasonably related to the administration or  
1034 performance of this Contract. Any such request shall allow the Contractor a reasonable period of  
1035 time within which to provide the requested books, records, or information.

1036                   ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

1037           30.   (a)   The provisions of this Contract shall apply to and bind the successors and  
1038 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest  
1039 therein shall be valid until approved in writing by the other party.

1040                   (b)   The assignment of any right or interest in this Contract by either party  
1041 shall not interfere with the rights or obligations of the other party to this Contract absent the  
1042 written concurrence of said other party.

1043                   (c)   The Contracting Officer shall not unreasonably condition or withhold  
1044 approval of any proposed assignment.

1045                   SEVERABILITY

1046           31.   In the event that a person or entity who is neither (i) a party to a Project contract,  
1047 nor (ii) a person or entity that receives Project Water from a party to a Project contract, nor  
1048 (iii) an association or other form of organization whose primary function is to represent parties to

1049 Project contracts, brings an action in a court of competent jurisdiction challenging the legality or  
1050 enforceability of a provision included in this Contract and said person, entity, association, or  
1051 organization obtains a final court decision holding that such provision is legally invalid or  
1052 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s),  
1053 the parties to this Contract shall use their best efforts to (i) within 30 days of the date of such  
1054 final court decision identify by mutual agreement the provisions in this Contract which must be  
1055 revised and (ii) within three months thereafter promptly agree on the appropriate revision(s).  
1056 The time periods specified above may be extended by mutual agreement of the parties. Pending  
1057 the completion of the actions designated above, to the extent it can do so without violating any  
1058 applicable provisions of law, the United States shall continue to make the quantities of Project  
1059 Water specified in this Contract available to the Contractor pursuant to the provisions of this  
1060 Contract which were not found to be legally invalid or unenforceable in the final court decision.

1061 RESOLUTION OF DISPUTES

1062 32. Should any dispute arise concerning any provisions of this Contract, or the  
1063 parties' rights and obligations thereunder, the parties shall meet and confer in an attempt to  
1064 resolve the dispute. Prior to the Contractor commencing any legal action, or the Contracting  
1065 Officer referring any matter to Department of Justice, the party shall provide to the other party  
1066 30-days' written notice of the intent to take such action; Provided, That such notice shall not be  
1067 required where a delay in commencing an action would prejudice the interests of the party that  
1068 intends to file suit. During the 30-day notice period, the Contractor and the Contracting Officer  
1069 shall meet and confer in an attempt to resolve the dispute. Except as specifically provided,  
1070 nothing herein is intended to waive or abridge any right or remedy that the Contractor or the  
1071 United States may have.

1072

OFFICIALS NOT TO BENEFIT

1073 33. No Member of or Delegate to Congress, Resident Commissioner, or official of the  
1074 Contractor shall benefit from this Contract other than as a water user or landowner in the same  
1075 manner as other water users or landowners.

1076

CHANGES IN CONTRACTOR'S SERVICE AREA OR ORGANIZATION

1077 34. (a) While this Contract is in effect, no change may be made in the  
1078 Contractor's Service Area or organization, by inclusion or exclusion of lands or by any other  
1079 changes which may affect the respective rights, obligations, privileges, and duties of either the  
1080 United States or the Contractor under this Contract, including, but not limited to, dissolution,  
1081 consolidation, or merger, except upon the Contracting Officer's written consent.

1082 (b) Within 30 days of receipt of a request for such a change, the Contracting  
1083 Officer will notify the Contractor of any additional information required by the Contracting  
1084 Officer for processing said request, and both parties will meet to establish a mutually agreeable  
1085 schedule for timely completion of the process. Such process will analyze whether the proposed  
1086 change is likely to: (i) result in the use of Project Water contrary to the terms of this Contract;  
1087 (ii) impair the ability of the Contractor to pay for Project Water furnished under this Contract or  
1088 to pay for any Federally-constructed facilities for which the Contractor is responsible; and  
1089 (iii) have an impact on any Project Water rights applications, permits, or licenses. In addition,  
1090 the Contracting Officer shall comply with NEPA and ESA. The Contractor will be responsible  
1091 for all costs incurred by the Contracting Officer in this process, and such costs will be paid in  
1092 accordance with Article 24 of this Contract.

1093

FEDERAL LAWS

1094 35. By entering into this Contract, the Contractor does not waive its rights to contest  
1095 the validity or application in connection with the performance of the terms and conditions of this  
1096 Contract of any Federal law or regulation; Provided, That the Contractor agrees to comply with  
1097 the terms and conditions of this Contract unless and until relief from application of such Federal

1098 law or regulation to the implementing provision of the Contract is granted by a court of  
1099 competent jurisdiction.

1100 NOTICES

1101 36. Any notice, demand, or request authorized or required by this Contract shall be  
1102 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or  
1103 delivered to the Area Manager, Bureau of Reclamation, 7794 Folsom Dam Road, Folsom,  
1104 California 95630-1799, and on behalf of the United States, when mailed, postage prepaid, or  
1105 delivered to the City Manager of the City of Roseville, 2005 Hilltop Circle, Roseville, California  
1106 95747. The designation of the addressee or the address may be changed by notice given in the  
1107 same manner as provided in this Article for other notices.

1108 CERTIFICATION OF NONSEGREGATED FACILITIES

1109 37. Omitted

1110 MEDIUM FOR TRANSMITTING PAYMENTS

1111 38. (a) All payments from the Contractor to the United States under this Contract  
1112 shall be by the medium requested by the United States on or before the date payment is due. The  
1113 required method of payment may include checks, wire transfers, or other types of payment  
1114 specified by the United States.

1115 (b) The Contractor shall furnish the Contracting Officer with the Contractor's  
1116 taxpayer's identification number (TIN). The purpose for requiring the Contractor's TIN is for  
1117 collecting and reporting any delinquent amounts arising out of the Contractor's relationship with  
1118 the United States.

1119 CONTRACT DRAFTING CONSIDERATIONS

1120 39. This amended Contract has been, negotiated and reviewed by the parties hereto,  
1121 each of whom is sophisticated in the matters to which this amended Contract pertains. The  
1122 double-spaced Articles of this amended Contract have been drafted, negotiated, and reviewed by  
1123 the parties, and no one party shall be considered to have drafted the stated articles. Single-  
1124 spaced articles are standard articles pursuant to Reclamation policy.

1125 CONFIRMATION OF CONTRACT

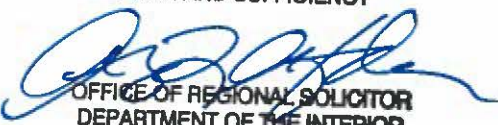
1126 40. Promptly after the execution of this contract, the Contractor will provide evidence  
1127 to the Contracting Officer that, pursuant to the laws of the State of California, the Contractor is a  
1128 legally constituted entity and the contract is lawful, valid, and binding on the Contractor. This  
1129 contract will not be binding on the United States until the Contractor provides evidence to the  
1130 Contracting Officer's satisfaction. In addition to other forms of evidence to meet the  
1131 requirements of this Article, the Contractor may provide or the Contracting Officer may require a




1132 certified copy of a final decree of a court of competent jurisdiction in the State of California,  
1133 confirming the proceedings on the part of the Contractor for the authorization of the execution of  
1134 this contract.

1135 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of  
1136 the day and year first above written.


1137 UNITED STATES OF AMERICA

1138 APPROVED AS TO LEGAL  
1139 FORM AND SUFFICIENCY  
1140   
1141 OFFICE OF REGIONAL SOLICITOR  
1142 DEPARTMENT OF THE INTERIOR

By:   
Regional Director  
Interior Region 10: California-Great Basin  
Bureau of Reclamation

1143 CITY OF ROSEVILLE

1144  
1145 (SEAL)

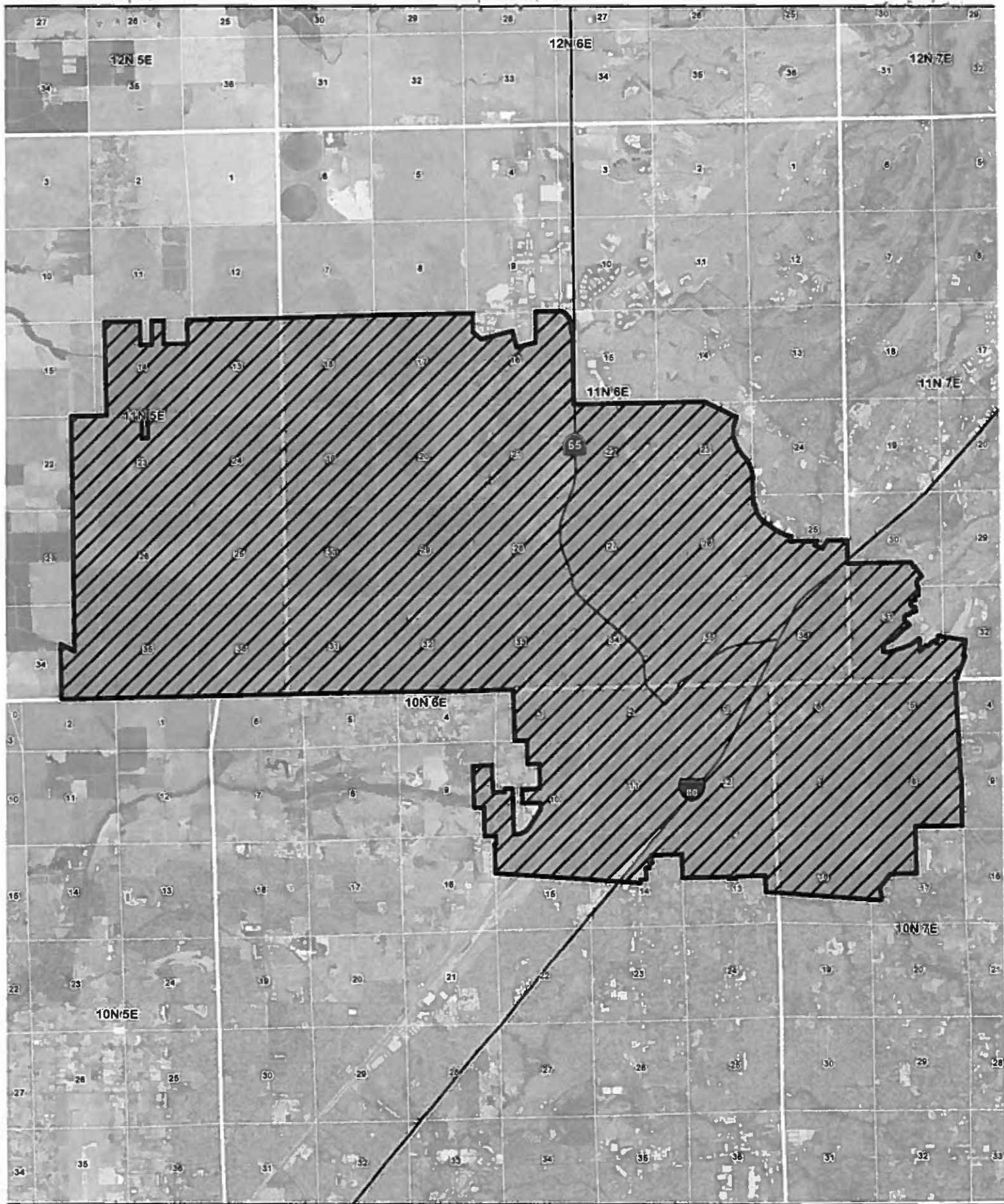
By:   
City Manager



1146 Approved as to form

1147 By:   
1148 City Attorney

1149 Attest:

1150 By:   
1151 City Clerk



-  Water District Boundary
-  Contractor's Service Area

**City of Roseville**  
 Contract No. 14-06-200-3474A-IR3-P  
**EXHIBIT A**

**RECLAMATION**  
*Managing Water in the West*

Date: 11/17/2016  
 File Name: N:\Districts\Contracts\city\_of\_roseville\city\_of\_roseville\_20161108.mxd



353-202-31

**Exhibit B**  
**CITY OF ROSEVILLE**  
**2020 Rates and Charges**  
**(Per Acre-Foot)**

	M&I Water
<b>COST-OF-SERVICE (COS) RATE</b>	
Construction Component	\$0.00
O&M Component	
Water Marketing	\$6.12
Storage	\$14.99
Deficit Cost Component	\$0.00
<b>TOTAL COS RATE (Tier 1 Rate)</b>	<b>\$21.11</b>
<b>M&amp;I FULL COST RATE</b>	
	\$0.00
<b>TIERED PRICING COMPONENTS (In Addition to Total COS Rate Above)</b>	
<b>M&amp;I</b>	
<i>Tier 2 Rate: &gt;80% &lt;=90% of Contract Total (Amount to be Added to Tier 1 Rate)</i>	\$0.00
<i>Tier 3 Rate: &gt;90% of Contract Total (Amount to Be Added to Tier 1 Rate)</i>	\$0.00
<b>CHARGES AND ASSESSMENTS (Payments in Addition to Rates)</b>	
<b>P.L. 102-575 Surcharges (Restoration Fund Payments)<sup>1</sup> [Section 3407(d)(2)(A)]</b>	<b>\$21.82</b>
<b>P.L. 106-377 Assessment (Trinity Public Utilities District)<sup>2</sup> [Appendix B, Section 203]</b>	<b>\$0.12</b>

**EXPLANATORY NOTES**

- 1 The surcharges were determined pursuant to Title XXXIV of P.L. 102-575. Restoration Fund surcharges under P.L.102-575 are determined on a fiscal year basis (10/1-9/30).
- 2 The Trinity Public Utilities District Assessment is applicable to each acre-foot of water delivered from 3/1/2020-2/28/2021 and is adjusted annually.

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

Additional details of the rate components are available on the Internet at  
[www.usbr.gov/mp/cvpwaterrates/](http://www.usbr.gov/mp/cvpwaterrates/).

# Exhibit C

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

### Unpaid Construction Cost from the 2020 Water Rate Books\*

**Contractor:** City of Roseville  
**Facility:** Folsom D&R  
**Contract:** 14-06-200--3474A-IR1-P

Irrigation Construction Cost (2020 Irrigation Ratebook, Schedule A-2Ba and A-2Bc)		
	Unpaid Cost	Discount
Construction Cost (Excludes Intertie):	\$ -	\$ -
2019 Repayment (Estimate) **	\$ -	\$ -
Adjusted Construction Cost (Excludes Intertie):	\$ -	\$ -
Intertie Construction Cost:	\$ -	\$ -
<b>Total</b>	<b>\$ -</b>	<b>\$ -</b>
If Paid in Installments (Used 20 yr CMT)		
Due		
Payment 1	N/A	\$ -
Payment 2	N/A	\$ -
Payment 3	N/A	\$ -
Payment 4	N/A	\$ -
<b>Total Installment Payments</b>		<b>\$ -</b>
20 yr CMT Rates		N/A
Discount Rate (1/2 of the Treasury Rate per the WIIN Act, Section 4011(a)(2)(A))		N/A

M&I Construction Cost (2020 M&I Ratebook, Sch A-2Ba)	
	Unpaid Cost
Construction Cost:	\$ (627,375)
2019 Repayment (Estimate) **	\$ -
<b>Adjusted Construction Cost***:</b>	<b>\$ (627,375)</b>

**Calculation Support:** Irrigation Lump Sum or First Payment Due Date N/A  
 Days Until the End of the Fiscal Year N/A

Fiscal Yr	Unpaid Allocated Construction Cost			Unpaid Intertie Construction Cost			Total
	Beginning Balance	Straight Line Repayment	Present Value	Beginning Balance	Straight Line Repayment	Present Value	Present Values
2020	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2021	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2022	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2023	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2024	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2025	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2026	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2027	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2028	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2029	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2030	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2031-63	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total, Lump Sum Payment</b>		<b>\$ -</b>				<b>\$ -</b>	<b>\$ -</b>

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

\* Costs are assumed to be paid and all charges are assumed to be accurate. If at a later date charges are determined to need update, they are still required. Also, unpaid charges are still a requirement under contract.  
 \*\* 2019 Repayment is based on a conservative estimate. If not sufficient, the remainder will be billed.  
 \*\*\* Excludes interest to payment date as interest will be computed as an annual expense as usual.