

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
California

PARTNERSHIP AGREEMENT  
BETWEEN THE UNITED STATES  
AND THE SITES PROJECT AUTHORITY  
PROVIDING FOR  
FEDERAL PARTICIPATION IN  
THE SITES PROJECT

TABLE OF CONTENTS

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble.....	1
	Recitals .....	2
1	Definitions.....	4
2	Term of Agreement.....	<a href="#">1011</a>
3	Development, Construction, and Ownership of the Sites Project.....	11
4	Federal Participation in the Sites Project.....	12
5	Costs Associated with the Sites Project.....	<a href="#">1412</a>
6	Lease or Sale of Storage Capacity, Conveyance Capacity, and Sites Water.....	<a href="#">1716</a>
7	Operation of Sites Reservoir.....	<a href="#">1716</a>
8	Environmental and Cultural Coverage and Compliance .....	<a href="#">2019</a>
9	Dispute Resolution.....	<a href="#">2221</a>
10	Opinions and Determinations .....	32
11	Water Measurement.....	33
12	Severability .....	34
13	Hold Harmless .....	<a href="#">3534</a>
14	Notices .....	<a href="#">3636</a>
15	Contingent on Appropriation or Allotment of Funds .....	<a href="#">3636</a>
16	Officials Not to Benefit.....	<a href="#">3637</a>
17	Assignment Limited - Successors and Assigns Obligated.....	<a href="#">3637</a>
18	Books, Records, and Reports .....	<a href="#">3737</a>
19	Compliance with Laws .....	<a href="#">3737</a>

20	Compliance with Civil Rights.....	<u>3838</u>
21	Medium for Transmitting Payments .....	<u>4039</u>
22	Agreement Drafting Considerations .....	<u>4139</u>
	Signature Page .....	21

Exhibit A: Spend Plan

Exhibit B: Sites Project Information, Capacity Interest and Facilities

Exhibit C: Payment Formulas

Exhibit D: Refuge Donation Agreement

Exhibit E: Lease and Sale of Capacity Interest

Exhibit F: Excess Capacity Contract

Exhibit G: Agreement Between the Department of Water Resources of the State of California, The United States Bureau of Reclamation, and The Sites Project Authority to Coordinate in the Operations of the Sites Reservoir Project

Exhibit H: Allowable Costs; Approval, Documentation, and Cost Allocation

Exhibit I: Governance

1

2

3

4

5

6

7

8

---

---

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF RECLAMATION  
California

PARTNERSHIP AGREEMENT  
BETWEEN THE UNITED STATES  
AND THE SITES PROJECT AUTHORITY  
PROVIDING FOR  
FEDERAL PARTICIPATION IN  
THE SITES PROJECT

9           THIS AGREEMENT, effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (“Effective  
10 Date”) in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory  
11 thereof or supplementary thereto, including but not limited to, the Act of August 4, 1939 (53  
12 Stat. 1187; 43 U.S.C. Part 485), Sections 4007(c), 4007(e), 4007(f), and 4007(g) of the Water  
13 Infrastructure Improvements for the Nation Act (“WIIN Act”) of December 16, 2016 (Public  
14 Law 114-322, 130 Stat. 1865) between THE UNITED STATES OF AMERICA acting by and  
15 through the Bureau of Reclamation, hereinafter referred to as the “Contracting Officer” or  
16 “Reclamation”, and the SITES PROJECT AUTHORITY, hereinafter referred to as the “Sites  
17 Authority”, duly organized, existing, and acting pursuant to the laws of California. The United  
18 States and the Sites Authority are referred to collectively as the “Parties,” and individually as a  
19 “Party.”

20 WITNESSETH, that:

21 **EXPLANATORY RECITALS**

22 [1<sup>st</sup>] WHEREAS, § 4007(g) of the WIIN Act authorizes the Secretary of the Interior,  
23 acting through the Commissioner, to partner or enter into an agreement regarding the water  
24 storage projects identified in § 103(d)(1) of the Water Supply, Reliability, and Environmental  
25 Improvement Act (Public Law 108-361; 118 Stat. 1684) with local joint powers authorities  
26 formed pursuant to California State law by irrigation districts and other local water districts and  
27 local governments within the applicable hydrologic region, to advance those projects; and

28 [2<sup>nd</sup>] WHEREAS, the Sites Project was identified in § 103(d)(1) of the Water Supply,  
29 Reliability, and Environmental Improvement Act (Public Law 108-361; 118 Stat. 1684); and

30 [3<sup>rd</sup>] WHEREAS, the Sites Authority, previously known as the Sites Joint Powers  
31 Authority, was formed as a California joint powers authority operating under and by virtue of  
32 Section 6500 et seq., of the California Government Code and formed in accordance with the  
33 Sites Project Authority Joint Exercise of Powers Agreement, as such agreement may be modified  
34 from time to time, with the primary purpose of designing, constructing, owning, operating and  
35 maintaining the Sites Project, a State-led storage project; and

36 [4<sup>th</sup>] WHEREAS, Reclamation completed the North-of-the-Delta Offstream Storage –  
37 Sites Feasibility Report (“Feasibility Report”) in December 2020 which determined the potential  
38 Federal and non-Federal interest in the Sites Project; and

39 [5<sup>th</sup>] WHEREAS, § 4007(e) of the WIIN Act provides, “subject to compliance with  
40 State water rights laws, the right to use the capacity of a State-led storage project for which the  
41 Secretary of the Interior has entered into an agreement under this subsection shall be allocated in

42 such manner as may be mutually agreed to by the Secretary of the Interior and each other party  
43 to the agreement.”; and

44 [6<sup>th</sup>] WHEREAS, pursuant to § 4007(f)(1) of the WIIN Act, the California Water  
45 Commission determined that the State-led Sites Project is consistent with the California Water  
46 Quality, Supply, and Infrastructure Improvement Act; and

47 [7<sup>th</sup>] WHEREAS, on November 2, 2023, the Sites Authority and Reclamation released  
48 a joint Final Environmental Impact Report/Final Environmental Impact Statement, hereinafter  
49 “FEIR/FEIS”, for the Project; and the Sites Authority certified the FEIR/FEIS and adopted the  
50 Project with Board Resolution 2023-02; and on January 23, 2026 Reclamation signed its Record  
51 of Decision for the construction and operation of the Sites Project; and

52 [8<sup>th</sup>] WHEREAS, the Sites Authority intends to enter into and comply with contracts  
53 with State and local agencies pursuant to which the State and local agencies will receive certain  
54 benefits (including water service) and have certain obligations related to the Sites Project. These  
55 include (i) Exhibit G: Agreement Between the Department of Water Resources of the State of  
56 California, the United States Bureau of Reclamation, and the Sites Project Authority to  
57 Coordinate in the Operations of the Sites Reservoir Project; (ii) Public Benefits Agreements with  
58 California State Agencies; (iii) Proposition 1 Water Storage Investment Program Contract with  
59 the California Water Commission; and (iv) Benefits and Obligations Contract.

60 [9<sup>th</sup>] WHEREAS, the Sites Authority intends to enter into and comply with Partner  
61 Agreements with agencies to convey water related to and from the Sites Project.

62 [10<sup>th</sup>] WHEREAS, the Sites Authority entered into the Colusa County / Sites Authority  
63 Memorandum of Understanding and intends for Sites Water originating from Funks Creek and

64 its tributaries, Stone Corral Creek and its tributaries, and the watershed of Sites Reservoir to be  
65 allocated consistently with such Memorandum of Understanding.

66

67 NOW, THEREFORE, it is agreed by and between the Parties hereto as follows:

68 **DEFINITIONS**

69 1. When used herein unless otherwise distinctly expressed, or manifestly  
70 incompatible with the intent hereof, the following term:

71 (a) "Allowable Costs" shall mean those costs eligible for reimbursement or  
72 credit under this Agreement as defined and subject to Exhibit H.

73 (b) "Anadromous Fish Benefits" shall mean the Sites Water in Reclamation's  
74 Capacity Interest in Sites Reservoir that Reclamation manages to meet its environmental  
75 compliance obligations.

76 (c) "Base Facilities" shall mean the Sites Owned Facilities or other facilities  
77 available to all Storage Partners listed as Base Facilities in Exhibit B.

78 (d) "Base Facilities Capacity Interest" shall mean (i) the undivided capacity  
79 right to store, convey and divert Sites Water in each of the Sites Owned Facilities granted by the  
80 Sites Authority, and (ii) the ability to utilize Federal Facilities and Partner Facilities through the  
81 Sites Authority to convey and divert Sites Water for the Sites Project, in the pro-rata share set out  
82 for each Storage Partner in Exhibit B, subject to the Sites Water Right, applicable law and  
83 governmental approvals.

84 (e) "Capacity Interest" shall mean (i) in the case of the Base Facilities, the  
85 Base Facilities Capacity Interest; and (ii) in the case of the Downstream Facilities, the  
86 Downstream Facilities Capacity Interest, or either of them as the context requires.

87 (f) “Capital Improvements” shall mean any activity that extends the useful  
88 life of a property, plant or equipment asset, expands the capacity or efficiency of an asset, or  
89 otherwise upgrades an asset to serve needs different from, or significantly greater than, an asset’s  
90 current use, or as defined in the current version of the *Blue Book* entitled Federal Replacements,  
91 Units, Service Lives, Factors, or in accordance with Federal law and accounting standards, or  
92 any other regulations, policies, guidelines, or instructions adopted thereunder.

93 (g) “Central Valley Project” or “CVP” shall mean the Central Valley Project  
94 owned by the United States and managed by the Department of the Interior, Bureau of  
95 Reclamation.

96 (h) “Completion” shall mean the determination by the Sites Authority Board  
97 and the Reservoir Management Board that the Sites Project Facilities are complete for the  
98 purposes of providing water service, including water storage, intake, outlet, and conveyance, to  
99 Storage Partners.

100 (i) “Delivery Point” shall mean Funks Reservoir or Terminal Regulating  
101 Reservoir, at which the Sites Authority will make water supplies available to Reclamation.

102 (j) "Downstream Facilities" shall mean the Sites Owned Facilities or other  
103 facilities that are utilized by select Storage Partners listed as Downstream Facilities in Exhibit B.

104 (k) "Downstream Facilities Capacity Interest" shall mean the undivided  
105 capacity right to convey Sites Water through Downstream Facilities for the delivery of Sites  
106 Water, consistent with this Agreement and the Partner Agreements, in the pro-rata share set out  
107 for each Storage Partner in Exhibit B, subject to the Sites Water Right, applicable law and  
108 governmental approvals.

109 ~~(4)~~ “Federal Facilities” shall mean all facilities owned by the United States, as  
110 listed in Exhibit B.

111 ~~(1)~~

112 (m) “Fixed O&M Costs” shall mean all costs, calculated in accordance with  
113 Generally Accepted Accounting Principles, incurred by the Sites Authority to administer,  
114 operate, and maintain the Sites Project that are not directly related to the amount of water  
115 conveyed into or released from Sites Reservoir. Fixed O&M Costs include all operating and  
116 maintenance costs that are not Variable O&M Costs. Additional Fixed O&M Costs include  
117 repair and replacement costs not charged to a capital account, and insurance and contributions to  
118 reasonably required reserves. Fixed O&M Costs exclude (i) depreciation and (ii) amortization of  
119 intangibles or other bookkeeping entries of a similar nature. Fixed O&M Costs include all  
120 expenditures that are not Fixed Project Costs or Variable O&M Costs that are incurred by the  
121 Sites Authority.

122 (n) “Fixed Project Costs” shall mean (i) development, design, construction  
123 and capital costs of the Sites Project Facilities prior to Completion, and (ii) individual repair,  
124 replacement, rehabilitation, improvement, or regulatory compliance activities incurred after  
125 Completion of the Sites Project Facilities to the extent not covered by Fixed O&M Costs.

126 (o) “Force Majeure” shall mean events beyond the reasonable control of a  
127 Party, including strikes, riots, wars, fire, earthquakes, acts of God and/or unusual acts of nature,  
128 acts in compliance with any law, regulation or order (whether valid or invalid) by the United  
129 States of America or any state thereof or any other domestic or foreign governmental body or  
130 instrument thereof having jurisdiction in the matter, in each case which directly, materially and  
131 adversely affects a Party’s ability to perform its obligations under this Agreement.

132 (p) “Generally Accepted Accounting Principles” shall mean such accepted  
133 accounting practices as established at the time for use at public agencies in the United States of  
134 America, consistently applied.

135 (q) “Good Industry Practice” shall mean the exercise of the degree of skill,  
136 diligence, prudence and foresight which would reasonably and ordinarily be expected from a  
137 skilled and experienced designer, engineer, constructor, supplier, operator or maintenance  
138 provider, as applicable, operating in the United States under the same or similar circumstances  
139 and conditions, seeking in good faith to comply with its contractual obligations, this Agreement  
140 and all applicable law and governmental approvals in conformance with applicable professional  
141 engineering principles, construction, operations and maintenance practices generally accepted as  
142 standards of the industry in the State.

143 (r) “IL4 Water” shall mean Incremental Level 4 refuge water supply pursuant  
144 to the Central Valley Project Improvement Act, Title 34 of Public Law 102-575.

145 (s) “In-kind Services” shall mean eligible time and effort, real and personal  
146 property, and goods and services that may be applied to cost-share, as defined, evaluated and  
147 documented in Article 5 and Exhibit H. Valuation of In-kind Services shall be in accordance  
148 with 2 CFR Part 200 subpart e.

149 (t) “O&M Costs” shall mean Fixed O&M Costs and Variable O&M Costs.

150 (u) “Participants” shall mean the parties listed as Participants in Exhibit B.

151 (v) “Partner Agreements” shall mean any agreement between the Sites  
152 Authority and another entity for the diversion, release and conveyance of Sites Water to or from  
153 the Sites Project, as listed in Exhibit B.

154 (w) “Partner Facilities” shall mean any facilities, excluding Federal Facilities,  
155 used by the Sites Authority to convey Sites Water to, or from, the Sites Owned Facilities in  
156 accordance with the Partner Agreements, and as further described in Exhibit B.

157 (x) “Project Assets” shall mean all of the tangible and intangible assets  
158 relating to the Sites Project, including (i) the Sites Owned Facilities, (ii) all real property  
159 determined by the Sites Authority to be required for construction or operation of the Sites  
160 Project, (iii) rights over the Sites Project Facilities in the form of license, right-of-way or  
161 otherwise, (iv) tangible assets such as foundations, buildings, pavements, works, and equipment,  
162 (v) the Sites Water Right, and (vi) all governmental approvals.

163 (y) “Refuge Water Points of Acceptance” shall mean locations at which the  
164 Sites Authority will make water supplies available to Reclamation for delivery to refuges as  
165 outlined in Exhibit D.

166 (z) “Refuge Water Points of Delivery” shall mean locations at which the  
167 Water Purveyor delivers water supplies made available by Reclamation to the refuges.

168 ~~(aa)~~ “Project Use Energy” shall mean the electrical capacity, energy, and  
169 associated ancillary service components required to provide the minimum electrical service using  
170 the most economical methods needed to operate and/or maintain Reclamation-owned facilities in  
171 conformance with CVP authorization.

172 ~~(aa)(bb)~~ “Pro-rata Cost Share” shall mean the proportionate interest based  
173 on each Storage Partner’s paid Sites Project Costs after 1 January 2018. In the case of  
174 Reclamation, such costs will be consistent with Article 5.

175 ~~(bb)(cc)~~ “Secondary Delivery Point” shall mean a location designated by  
176 Reclamation for delivery of Sites Water as described in Article 7(b).

177 ~~(ee)~~(dd) “Sites Authority” shall mean a California Joint Powers Authority  
178 operating under and by Section 6500 et seq., of the California Government Code and formed in  
179 accordance with the Sites Joint Powers Authority Agreement, as such agreement may be  
180 modified from time to time. The Sites Authority was established for the purpose of designing,  
181 constructing, owning, operating and maintaining the Sites Project.

182 ~~(dd)~~(ee) “Sites Owned Facilities” shall mean the physical infrastructure and  
183 capital improvements for the Sites Project owned by the Sites Authority, including dams,  
184 reservoir(s), pipelines, pump stations, and other facilities necessary or appropriate for providing  
185 water supply and storage including the facilities listed as Sites Owned Facilities in Exhibit B,  
186 excluding the real property required for the Sites Project.

187 ~~(ee)~~(ff) “Sites Project Costs” shall mean the sum of Fixed O&M Costs, Fixed  
188 Project Costs and Variable O&M Costs payable by or credited to Reclamation under this  
189 Agreement, or each of them, as the context requires.

190 ~~(ff)~~(gg) “Sites Project Facilities” shall mean collectively the Sites Owned  
191 Facilities, Federal Facilities and Partner Facilities, or any of them as the context requires.

192 ~~(gg)~~(hh) “Sites Project” shall mean the Sites Project Facilities utilized by  
193 the Sites Authority for the purpose of providing storage and conveyance of water for use by  
194 Storage Partners, and other benefits, as such project may be modified from time to time.

195 ~~(hh)~~(ii) “Sites Reservoir” shall mean the 1.5 million acre-feet off-stream storage  
196 reservoir near Maxwell, California.

197 ~~(ii)~~(jj) “Sites Water” shall mean the water that is appropriated under the Sites  
198 Water Right and is considered Non-Project Water, as defined in Exhibit F.

199 ~~(jj)~~(kk) “Sites Water Right” shall mean the water right [Order XXXX] obtained  
200 and owned by the Sites Authority for the Sites Project.

201 ~~(kk)~~(ll) “Storage Partner” shall mean the governmental agencies, water  
202 organizations, and others who have funded and received Capacity Interest and the associated  
203 Sites Water, as listed in Exhibit B.

204 ~~(ll)~~(mm) \_\_\_\_\_ “Water Purveyor” shall mean contractors with which Reclamation  
205 has agreements to convey water to refuges.

206 ~~(mm)~~(nn) \_\_\_\_\_ “Variable O&M Costs” shall mean the operation and maintenance  
207 costs incurred by the Sites Authority in connection with the Sites Project in an amount that is  
208 dependent upon and varies with the amount of Sites Water diverted, stored or released from the  
209 Sites Project Facilities to the Storage Partners, including but not limited to the cost of power  
210 (including pumping), replacement and other costs, funding of reserves in accordance with the  
211 Sites Authority policies and Generally Accepted Accounting Principles, and wheeling and other  
212 conveyance costs for the use of Federal Facilities, Partner Facilities, and other facilities that are  
213 not Sites Owned Facilities.

214 ~~(nn)~~(oo) \_\_\_\_\_ “Year” shall mean the period beginning on January 1 of each  
215 calendar year and ending on the last day of December of such calendar year.

216 **TERM OF AGREEMENT**

217 2. This Agreement is effective on the date hereinabove written, hereinafter Effective  
218 Date, and will continue in perpetuity for so long as each of the Parties continue to  
219 have their obligations under this Agreement or until terminated.

220 2. \_\_\_\_\_

221 (a) The Parties may mutually agree to terminate this Agreement; in which  
222 case, the Parties will meet and confer to come to mutual agreement regarding termination.

223 (b) Reclamation and the Sites Authority shall jointly review this Agreement,  
224 which review shall be performed at least every five (5) Years. A more frequent review will occur  
225 if determined to be appropriate by the Parties. The review shall compare the relative success  
226 which each Party has had in meeting its objectives, as outlined in this Agreement and this  
227 Agreement's exhibits, including, but not limited to, those objectives in Exhibit A.

228 (c) This Agreement may be modified or amended upon written mutual  
229 agreement of the Parties. The Parties agree that any exhibit attached to this Agreement,  
230 excluding Exhibit A, may be amended, updated, or replaced without requiring a formal  
231 amendment to this Agreement, provided that: (1) such amendment, update, or replacement is  
232 documented in writing and signed by authorized representatives of the Parties; (2) the written  
233 amendment expressly references this Agreement and the specific exhibit being amended; (3)  
234 upon execution by the Parties, the amended exhibit shall automatically replace the prior version  
235 and be deemed incorporated into this Agreement as of the effective date stated in the amended  
236 exhibit; and (4) the amended exhibit shall not modify or affect any other terms or conditions of  
237 this Agreement. The Parties agree that the Sites Project's forecasted and actual revenue and  
238 expenditures in Exhibit A may be modified without amendment to this Agreement by the Sites  
239 Authority quarterly to reflect Sites Authority activities, provided that any modifications to  
240 Allowable Costs shall be made in accordance with Exhibit H. Exhibit A shall contain mutually  
241 agreeable terms for Reclamation to commit funding under § 4007 of the WIIN Act and to track  
242 Fixed Project Costs related to Completion and account for funds expended.

243 **DEVELOPMENT, CONSTRUCTION AND OWNERSHIP OF THE SITES PROJECT**

244 3. (a)\_\_\_\_-Subject to compliance with all applicable law and governmental  
245 approvals, the Sites Authority agrees to use commercially reasonable efforts to construct and  
246 achieve Completion of the Sites Project, provided that (i) each Storage Partner provides its share  
247 of all required funding; (ii) the Sites Authority is not prohibited by applicable law from  
248 proceeding; and (iii) the Sites Authority and the Reservoir Management Board have not mutually  
249 determined the Sites Project to be infeasible and impractical.

250 (b)\_\_\_\_-By this Agreement taking effect and the Sites Authority accepting  
251 payments from Storage Partners, the Sites Authority does not warrant that it will construct and  
252 achieve Ceompletion.

253 (c)\_\_\_\_-Subject to Article 6, the Sites Authority shall own all Project Assets,  
254 (excluding the Partner Facilities, the Federal Facilities and Storage Partners' Capacity Interests).  
255 Reclamation shall maintain its rights to the sole ownership and operation of the Federal  
256 Facilities. Reclamation's participation in the Sites Project, including its execution of this  
257 Agreement, shall not confer upon the Sites Authority or any Participant any ownership or  
258 operational right in the Federal Facilities.

259 **FEDERAL PARTICIPATION IN THE SITES PROJECT**

260 4. The Sites Authority and Reclamation agree that Reclamation is granted, and  
261 Reclamation shall own a 16% Base Facilities Capacity Interest and 16% Downstream Facilities  
262 Capacity Interest of the Sites Project and an ability to utilize a proportionate share of Sites Water  
263 originating from the Sacramento River as described in this Agreement subject to the following:

264 (a) Reclamation commits to the Sites Authority the \$798 million in federal  
265 funds appropriated prior to the Effective Date towards a portion of the grant and ownership of  
266 the Capacity Interest and subject to Article 9 and Article 11.

267 (b) After the Effective Date, Reclamation shall diligently pursue, within its  
268 authorities, the remaining funds necessary to pay for the Fixed Project Costs commensurate with  
269 the 16% Capacity Interest as further described in Article 5. In determining the funding  
270 mechanism to be used for the Sites Project, the Parties agree to meet and confer prior to  
271 Reclamation selecting a funding mechanism. Reclamation agrees to select the available  
272 mechanism within its authorities that is most efficient and least burdensome to the Parties and  
273 consistent with this Agreement.

274 (c) Reclamation's 16% Capacity Interest shall be subject to Article 10.

275 ~~a.(d)~~ The Parties agree that the grant of Reclamation's Capacity Interest shall  
276 not commence until due execution of:

- 277 i. This Agreement by Reclamation and the Sites Authority;  
278 ii. The contracts between the Sites Authority, each of the  
279 Participants and the Acquirer granting Capacity Interest; and  
280 iii. The contracts between the Sites Authority and the State of  
281 California granting Capacity Interest,

282 collectively representing 100% of the Base Facility Capacity Interest and  
283 provision of all legal opinions required under such contracts.

284 ~~(d)(e)~~

285

286

**COSTS ASSOCIATED WITH THE SITES PROJECT**

287

5. All Sites Project Costs associated with this Agreement shall be in line with

288

Generally Accepted Accounting Principles and in accordance with 43 Code of Federal

289

Regulations Part 429, Section 429.17, Subpart D, the Reclamation Act of 1902, and the

290

Reclamation Project Act of 1939, the Contributed Funds Act of 1922, and the Anti-Deficiency

291

Act (31 U.S.C. § 1341 et seq.).

292

(a) Pursuant to the 2015 Feasibility Memorandum of Understanding, as

293

amended, and the 2023 Pre-construction Memorandum of Agreement, entered into and agreed

294

upon by the Parties, Reclamation's In-Kind Services through Year 2025 total \$10,565,259.72

295

and are considered Allowable Costs credited to Reclamation's share of Fixed Project Costs

296

related to Completion. The Parties agree to strictly abide by the advanced approval conditions

297

described in Exhibit H. Reclamation will provide a final accounting of prior costs between

298

January 1<sup>st</sup> 2026 and the Effective Date within 60 days after the Effective Date;

299

(b) Reclamation's Allowable Costs under Exhibit H, payments under Exhibit

300

A, payments for Fixed Project Costs not related to Completion, and payments for O&M Costs,

301

made after the Effective Date, will be credited, reimbursed or otherwise applied to Reclamation's

302

share of Sites Project Costs in accordance with this Agreement.

303

(c) Within 90 days of the Effective Date, Reclamation and the Authority will

304

develop Exhibit A containing mutually agreeable terms for Reclamation to commit funding

305

under § 4007 of the WIIN Act and to track Fixed Project Costs related to Completion and

306

account for funds expended.

307

(d) Upon Completion, Reclamation and the Sites Authority will meet and

308

confer within a reasonable time frame to complete a final accounting of the Sites Project to

309 determine and mutually agree upon Reclamation's final Capacity Interest allocation as  
310 documented in Exhibit B.

311 (e) Fixed Project Costs not related to Completion assigned annually to  
312 Reclamation shall be proportionate to Reclamation's Base Facilities Capacity Interest and  
313 associated Downstream Facilities Capacity Interest.

314 (f) O&M Costs: The Sites Authority will be responsible for O&M of the Sites  
315 Project. The Sites Authority will identify the annual O&M Costs attributable to Reclamation.  
316 Reclamation will pay the attributable portion within 30 days of receiving an invoice, subject to  
317 available appropriations.

318 (i) Fixed O&M Costs assigned annually to Reclamation shall  
319 be proportionate to Reclamation's Base Facilities Capacity Interest and Downstream Facilities  
320 Capacity Interest.

321 (ii) Variable O&M Costs assigned annually to Reclamation  
322 shall be calculated based on Reclamation's use of its Base Facilities Capacity Interest and  
323 Downstream Facilities Capacity Interest.

324 (g) Use of Reclamation's unused Downstream Facilities Capacity Interest: In  
325 the event a Storage Partner utilizes Reclamation's Downstream Facilities Capacity Interest in the  
326 Dunnigan Pipeline, the Authority will develop and charge the Storage Partner a rate for such use  
327 commensurate with the use, unless otherwise directed by Reclamation. Proceeds received will be  
328 credited toward Reclamation's Sites Project Costs.

329 ~~(h)~~ In-kind Services: Reclamation's In-kind Services will count toward  
330 Reclamation's contribution to Sites Project Costs as described in this Agreement. In-kind

331 Services shall only be credited if the scope, valuation methodology, and allocation basis are in  
332 accordance with Exhibit H.

333 (i) Any interest or fees related to financing activity of the Sites Authority and  
334 their Storage Partners shall not be paid by Reclamation. Other non-allowable costs are described  
335 in Exhibit A.

336 ~~(h)(j)~~ The Sites Project is not part of the Central Valley Project, and as such, will  
337 not receive Project Use Energy.

338 ~~(h)(k)~~ Reclamation and the Sites Authority will establish, at a minimum,  
339 quarterly check-ins to monitor actual expenditures related to the Sites Project, and to discuss  
340 other items, including but not limited to, funding and any additional agreements. If there is a  
341 deficiency in funding from Reclamation under Exhibit A, Article 10 shall apply and if there is a  
342 deficiency in funding from the Sites Authority under Exhibit A, Article 11 shall apply.

343 ~~(h)(l)~~ To the extent power, energy, sale of land, sale of excess mitigation credits,  
344 or other revenue sources are generated by the Sites Project Facilities, sales of such power, energy  
345 and all other revenue sources will be managed by the Sites Authority. Any revenue received by  
346 the Sites Authority that is attributable to Reclamation's Capacity Interest or the use of  
347 Reclamation's Capacity Interest for the sale or other disposition of power, energy or other  
348 revenue sources shall be used to offset Reclamation's Variable O&M Costs, and to the extent  
349 that such revenues exceed Reclamation's Variable O&M Costs in a Year, any remaining  
350 revenues will be used to offset Reclamation's Fixed O&M Costs. The Parties acknowledge and  
351 agree that the release of Sites Water has a higher priority than the generation of power by Sites  
352 Project Facilities and power generation is not guaranteed to Reclamation with the release of Sites  
353 Water.

354

**LEASE OR SALE OF CAPACITY INTEREST, AND SITES WATER**

355

6. Reclamation shall have first right of refusal for lease, purchase, and defaulted

356

interests as described in Exhibit E.

357

**OPERATION OF SITES OWNED FACILITIES**

358

7. The Sites Authority will operate and maintain the Sites Owned Facilities in good

359

faith, in accordance with Good Industry Practice and in accordance with all applicable

360

agreements and this Agreement provided that (i) the Storage Partners provide all funding

361

required for operations and maintenance; and (ii) the Sites Authority and the Reservoir

362

Management Board, have not mutually determined the continued operation of the Sites Project is

363

infeasible and impractical. The Sites Authority will protect the Sites Water Right and will

364

manage, control, and protect Sites Water in good faith and in accordance with all applicable laws

365

and regulations.

366

(a) Sites Owned Facilities will be operated in a manner that avoids adverse

367

effects to the Central Valley Project, its water rights, and federal facilities.

368

(b) Reclamation agrees to timely provide requests for Sites Water to be stored

369

in Reclamation's Base Facilities Capacity Interest and Sites Water to be released from

370

Reclamation's Base Facilities Capacity Interest to the Delivery Points. The Sites Authority

371

agrees to take reasonable actions, consistent with applicable law and this Agreement, to achieve

372

Reclamation's storage and release requests to the Delivery Points. Reclamation may specify a

373

Secondary Delivery Point(s) in its release request subject to the reasonable approval by the Sites

374

Authority. The Sites Authority will take actions reasonably practicable to assist Reclamation in

375

conveying its Sites Water to the Secondary Delivery Point(s). Reclamation shall bear all costs

376 (monetary or otherwise) and the risk of loss between the Delivery Point and Secondary Delivery  
377 Point(s).

378 (c) The Sites Authority will operate the Sites Project so as to maximize the  
379 water supply and water supply related environmental benefits while continuing to provide flood  
380 control and recreational benefits. The diversion of Sites Water to storage will take priority over  
381 the release of water except in cases of flood control operations. The Sites Authority, in good  
382 faith, may temporarily discontinue or reduce the conveyance of Sites Water to, and release of  
383 Sites Water from, the Sites Owned Facilities in various emergency and non-emergency situations  
384 to protect life and property as part of the flood control benefit.

385 (d) Reclamation shall make reasonable and beneficial use of Sites Water  
386 consistent with this Agreement.

387 (e) The Parties agree Reclamation bears the risk of loss or reduction in Sites  
388 Water on a pro-rata and substantially similar basis as other Storage Partners.

389 (f) The Sites Authority will operate and maintain the Sites Project in full  
390 compliance with the terms of this Agreement and in such a manner that the Sites Project remains  
391 in good and efficient condition, subject to exercise of discretion to fund and carry out Capital  
392 Improvements.

393 (g) Reclamation's share of Sites Water diversions will be proportional to its  
394 Capacity Interest unless a lesser amount is requested by Reclamation.

395 (h) Subject to subarticle (i) below, the Sites Authority or Reclamation may  
396 request Capital Improvements to provide an added benefit to the Sites Project. Such Capital  
397 Improvements to Sites Owned Facilities shall be subject to approval by the Sites Authority.

398 Capital Improvements to Federal Facilities shall be subject to approval by Reclamation. -The

399 Sites Authority will prepare and distribute a document detailing the anticipated Sites Project

400 Costs and benefits of the proposed Capital Improvements.

401 (i) Reclamation may not opt out of costs of necessary Capital Improvements  
402 required to maintain initial Sites Project functions and that provide benefits initially  
403 contemplated for the Sites Project. If Reclamation is subject to Capital Improvements  
404 Reclamation's benefits will be commensurate with Reclamation's costs.

405 (j) In the event that proposed Capital Improvements are not approved by the  
406 Sites Authority, Storage Partners may elect to continue with the Capital Improvements. Those  
407 Sites Project Costs and benefits associated with such Capital Improvements shall be allocated  
408 only to the subset of Storage Partners electing to proceed with the Capital Improvements in  
409 accordance with an agreement among the Sites Authority and such Storage Partners.

410 (k) The Sites Authority will deliver Sites Water to the Refuge Water Points of  
411 Acceptance, as described in Exhibit D, to meet the Sites Project's IL4 Water obligations pursuant  
412 to the State of California's investment, without any cost to Reclamation. Reclamation will  
413 deliver Sites Water from the Refuge Water Points of Acceptance to the Refuge Water Points of  
414 Delivery.

415 (l) The Parties, along with the California Department of Water Resources,  
416 will execute Exhibit G to identify coordination processes for Sites Water diversions and releases.  
417 The Parties, along with the California Department of Water Resources, will consider changes  
418 necessary to represent conditions at the time of Completion and execute an amendment to  
419 Exhibit G as needed.

420 (m) Reclamation agrees to timely provide any information regarding its use of  
421 Sites Water that the Sites Authority needs to comply with applicable law.

422 (n) Reclamation will maintain its operational independence of the Central  
423 Valley Project. Neither Party shall operate in such a manner that may be arbitrary or capricious  
424 and intentionally harms another Party's benefits.

425 (o) The Sites Authority will be responsible for providing power to operate and  
426 maintain the Sites Owned Facilities and to convey Sites Water to the Delivery Points.

427 (p) The Sites Authority and Reclamation each agree that Reclamation shall be  
428 allowed, at reasonable times and upon reasonable prior notice, and at Reclamation's expense, to  
429 enter onto Sites Owned Facilities for reasonable purposes in accordance with the Sites  
430 Authority's reasonable safety regulations and policies and subject to applicable law and  
431 governmental approvals.

432 **ENVIRONMENTAL AND CULTURAL COVERAGE AND COMPLIANCE**

433 8. Reclamation will serve as the ESA Section 7 consultation lead for the initial  
434 construction and water-related operation of Sites Project Facilities. Reclamation and the  
435 Authority will meet and confer on future Sites Project activities to determine the most  
436 appropriate ESA consultation approach and lead agency consistent with applicable law and  
437 regulation.

438 (a) The Parties agree that Reclamation will consult on the operation of the  
439 Sites Project as ESA Section 7 lead, treating the operation of the Sites Project as a distinct  
440 component related to the Long-Term Operations of the State and Federal Projects. Reclamation  
441 intends to seek an incidental take statement specific to effects from the operation of the Sites  
442 Project.

443 (b) It is the understanding of the Parties that future reinitiation of consultation  
444 on the operations of the Central Valley Project after an initial incidental take statement for the  
445 effects from the operations of the Sites Project does not automatically require a reinitiation of  
446 consultation on the Sites Project. The Parties agree to meet and confer before reinitiation of  
447 consultation on the Sites Project to jointly review, among other things, the information before  
448 each agency, potential approaches, and possible outcomes. In any consultation that has the  
449 potential to result in impacts to the Sites Project operations, Reclamation will coordinate with the  
450 Sites Authority, the United States Fish and Wildlife Service (USFWS), and National Marine  
451 Fisheries Service (NMFS) to maintain and maximize the anticipated benefits of the Sites Project  
452 while avoiding adverse effects to the CVP. If the reinitiation of consultation on the Sites Project  
453 is required, the specific changes contemplated for the Sites Project must meet one of the criteria  
454 in accordance with the Endangered Species Act, Title 50 CFR § 402.16(a) as amended; the  
455 Parties will cooperate in the preparation and negotiation of the reinitiation of consultation and the  
456 resulting revised incidental take statement specific to the Sites Project.

457 (c) The Sites Authority is responsible for environmental compliance in regard  
458 to other applicable federal, state and local laws for the construction, operations, and maintenance  
459 of the Sites Project. The Sites Authority will document its compliance with these requirements,  
460 as appropriate, and agrees to provide such documentation to Reclamation upon request.

461 (d) Through the development, execution, and implementation of a  
462 Programmatic Agreement to address adverse effects to historic properties, Reclamation will  
463 remain in compliance with Section 106 of the National Historic Preservation Act of 1966, as  
464 amended, for the construction of the Sites Project. The Parties agree to meet and confer as

465 necessary to ensure the Sites Project's Section 106 construction compliance is timely  
466 implemented throughout the duration of construction.

467 (e) Reclamation has completed compliance with the National Environmental  
468 Policy Act of 1969, as amended for the construction and operations of the Sites Project. The  
469 Parties agree that any changes to the Sites Project's NEPA compliance will be addressed without  
470 delay throughout the duration of construction.

471 **EXCUSED PERFORMANCE**

472 9. The Sites Authority intends to enter into other agreements that will facilitate the  
473 operations and construction of the Sites Project and in performing its obligations under such  
474 agreements, the Sites Authority intends to comply with the terms of this Agreement; and

475 (a) Upon the occurrence of an event of Force Majeure, the Sites Authority  
476 shall be excused from its obligations under this Agreement for the period during which it is  
477 unable to comply with such obligations as a result of such event of Force Majeure; and  
478 Reclamation shall be excused from its obligations under this Agreement for the period during  
479 which it is unable to comply with such obligations as a result of the event of Force Majeure,  
480 other than the payment of Sites Project Costs described in this Agreement, which obligations are  
481 not subject to reduction or abatement, unless the event of Force Majeure specifically limits  
482 Reclamation's ability to pay, in which case the Parties will meet and confer to reach a mutually  
483 acceptable timeline for payment.

484 (b) Any excuse of obligations in accordance with this Article is subject to the  
485 proviso that, upon obtaining knowledge of an event of Force Majeure, such Party: (a) promptly  
486 notifies the Sites Authority and/or the other Party of the event of Force Majeure; (b) provides

487 reasonable details and updates relating to such event of Force Majeure; and (c) implements  
488 mitigation measures to the extent practicable.

489 **FAILURE OF TIMELY PAYMENT**

490 10. Pursuant to WIIN Act § 4007, Reclamation may contribute up to twenty-five (25)  
491 percent of the Sites Project Costs. Reclamation shall diligently pursue funding –within its  
492 authorities— sufficient to meet its obligations under this Agreement in a timely manner.

493 (a) Fixed Project Costs related to Completion.

494 (i) The Parties agree that they will informally meet and confer on  
495 financial needs of the Sites Project three years in advance of expected expenditures to assist  
496 Reclamation with making its budget requests.

497 (ii) Reclamation shall diligently pursue funding—within its  
498 authorities—so as to ensure there are sufficient funds appropriated to cover two (2) Years of  
499 Fixed Project Costs, based on costs anticipated to be incurred during the following two (2) year  
500 period based on Exhibit A. If sufficient funds have not been appropriated to cover such costs,  
501 then Reclamation shall develop a plan to pursue funding for Fixed Project Costs sufficient to  
502 meet its obligations in a timely manner and the Parties shall meet and confer to review such plan.

503 (iii) The Sites Authority will provide Reclamation with a billing  
504 statement for Reclamation’s share of Fixed Project Costs, based on such costs anticipated to be  
505 incurred during the period starting one year after the date of the billing statement based on  
506 Exhibit A, and documentation of any allocated funds shall be due within 30 days of issuance of  
507 the billing statement.

508 (iv) Reclamation will provide documentation of any allocated funds  
509 within thirty (30) days of issuance of the billing statement and will endeavor to execute  
510 appropriate funding mechanisms, or amendments thereto, as soon as reasonably practicable.

511 (v) If Reclamation has not provided documentation of sufficient  
512 allocated funds to the Sites Authority within ninety (90) days of issuance of the billing statement,  
513 the Sites Authority shall make written demand upon Reclamation. The written demand shall  
514 identify the portion of Reclamation's Capacity Interest that is at risk of forfeiture, being that  
515 portion of Reclamation's Capacity Interest for which Reclamation has not yet provided such  
516 documentation, based on the then current Exhibit A and in accordance with this Article ("Unpaid  
517 Capacity Interest"). If such documentation is not made available to the Sites Authority within an  
518 additional ninety (90) days from the date of such demand, Reclamation is deemed to have not  
519 made timely payment and forfeits the Unpaid Capacity Interest.

520 (vi) Upon a forfeiture of Unpaid Capacity Interest by Reclamation:

521 i. The Sites Authority shall use its best efforts to facilitate a  
522 sale of Reclamation's applicable Unpaid Capacity Interest.

523 ii. The other non-defaulting Storage Partners holding a  
524 Capacity Interest in the same Sites Project Facilities (the Base Facilities and/or the Downstream  
525 Facilities, as applicable) shall have a right of first refusal to assume all or a portion of  
526 Reclamation's Unpaid Capacity Interest and related financial obligations under this Agreement,  
527 at a price mutually agreed between the Sites Authority and the Storage Partner purchasing all or  
528 a portion of Reclamation's Unpaid Capacity Interest.

529 iii. Subject to Section (iv) below, in the event that the Sites  
530 Authority is unable to facilitate a sale of all of Reclamation's Unpaid Capacity Interest to other

531 non-defaulting Storage Partners in accordance with Section (ii) above, the Sites Authority may  
532 make such Unpaid Capacity Interest available to entities other than the non-defaulting Storage  
533 Partners, and may enter into an agreement with such entities for the purchase of all or a portion  
534 of Reclamation's Unpaid Capacity Interest and the assumption of the related obligations under  
535 this Agreement.

536 b-iv. In the event that the Sites Authority is unable to enter into  
537 an agreement with entities for the purchase of all or a portion of Reclamation's Unpaid Capacity  
538 Interest and the assumption of the related obligations under this Agreement, the Unpaid Capacity  
539 Interest shall be apportioned pro rata to Participants.

540 i-v. Notwithstanding that all or any portion of Reclamation's  
541 Unpaid Capacity Interest is sold, Reclamation shall remain liable to the Sites Authority for any  
542 costs incurred prior to said sale except that such liability shall be discharged to the extent that the  
543 buyer undertakes that liability. In the event of such sale, Reclamation shall not remain liable for  
544 the future Sites Project Costs associated with such sold Capacity Interest.

545 ii-vi. In the event that the Sites Authority sells all or a portion of  
546 Reclamation's Unpaid Capacity Interest, such monies shall be distributed for application as  
547 follows: (a) to the payment of, or (as the case may be) the reimbursement of the Sites Authority  
548 for all reasonable out-of-pocket costs, expenses, disbursements and losses which shall have been  
549 paid, incurred or sustained by the Sites Authority in connection with the sale of Reclamation's  
550 Unpaid Capacity Interest and the collection of such monies by the Sites Authority; (b) to the  
551 Sites Authority for Reclamation's full amount of its share of costs under this Agreement  
552 (including any interest, expenses or other obligations); and (c) the excess, if any, shall be paid to  
553 the Sites Authority.

554 (b) Fixed Project Costs and Fixed O&M Costs Not Related To Completion.

555 (i) Reclamation shall diligently pursue funding—within its  
556 authorities—so as to ensure there are sufficient funds appropriated to cover a minimum of one  
557 (1) Year of Fixed Project Costs and Fixed O&M Costs, based on costs anticipated to be incurred  
558 starting two (2) Years after the date of the billing statement. If sufficient funds have not been  
559 appropriated to cover such costs, then Reclamation shall develop a plan to pursue funding for  
560 Fixed Project Costs and Fixed O&M Costs sufficient to meet its obligations in a timely manner  
561 and the Parties shall meet and confer to review such plan.

562 (ii) The Sites Authority will provide Reclamation a billing statement  
563 for Reclamation’s share of Fixed Project Costs and Fixed O&M Costs, based on such costs  
564 anticipated to be incurred during the one (1) Year period starting one (1) Years after the date of  
565 the billing statement, and documentation of any allocated funds shall be due within thirty (30)  
566 days of issuance of an invoice.

567 (iii) Reclamation will provide documentation of any allocated funds  
568 within thirty (30) days of issuance of an invoice and will endeavor to execute appropriate  
569 funding mechanisms, or amendments thereto, as soon as reasonably practicable.

570 (iv) If Reclamation has not provided documentation of sufficient  
571 allocated funds to the Sites Authority within ninety (90) days of issuance of the billing statement,  
572 the Sites Authority shall make written demand upon Reclamation. The written demand shall  
573 identify the payment shortfall (Delinquent Payment Amount). If such documentation is not made  
574 available to the Sites Authority within 90 days from the date of such demand, Reclamation is  
575 deemed to have not made timely payment and is delinquent.

- 576 a. Upon a Fixed Project Cost or Fixed O&M Cost
- 577 delinquency by Reclamation not related to Completion:
- 578 i. The Sites Authority shall use its best efforts to
- 579 facilitate a sale(s) of any or all Sites Water from Reclamation's Capacity Interest to cover the
- 580 Delinquent Payment Amount, including the reimbursement of the Sites Authority for all
- 581 reasonable out-of-pocket costs, expenses, disbursements and losses which shall have been paid,
- 582 incurred or sustained by the Sites Authority in connection with the sale of Sites Water to cover
- 583 Reclamation's Delinquent Payment Amount;
- 584 ii. Reclamation shall have no right to utilize Sites
- 585 Water in any of its Capacity Interest, no right to otherwise utilize its Capacity Interest, and
- 586 agrees to allow other Storage Partners to utilize its Capacity Interest until its account is no longer
- 587 delinquent;
- 588 iii. Reclamation's right of first refusal in Article 6 is
- 589 suspended until its account is no longer delinquent; and
- 590 iv. . Upon full payment of delinquent amounts, Storage
- 591 Partners shall be given reasonable time to vacate Reclamation's Capacity Interest.
- 592 (c) Variable O&M Costs.
- 593 (i) The Sites Authority will provide Reclamation with an estimated
- 594 billing statement for Reclamation's share of Variable O&M Costs based on such costs
- 595 anticipated to be incurred during the six (6) month period starting one (1) Year after the date of
- 596 the billing statement.
- 597 (ii) The Parties will work diligently to execute appropriate funding
- 598 mechanisms, or amendments thereto, such that funding for Variable O&M Costs shall be made

599 available to the Sites Authority based on such costs anticipated to be incurred, during the  
600 following six (6) month period.

601 (iii) The Sites Authority shall provide Reclamation a billing statement  
602 for Reclamation's share of Variable O&M Costs based on such costs anticipated to be incurred  
603 for the six (6) month period starting six (6) months after the start of the billing statement, which  
604 shall be due within thirty (30) days of issuance of an invoice.

605 a. Consistent with Article 25, if Reclamation has not made  
606 sufficient funding available to the Sites Authority within thirty (30) days of issuance of an  
607 invoice, the Sites Authority shall make written demand upon Reclamation. The written demand  
608 shall identify the payment shortfall ("Delinquent Amount"). If sufficient funding is not made  
609 available to the Sites Authority within thirty (30) days from the date of such demand,  
610 Reclamation is deemed to have not made timely payment and is in delinquency.

611 b. Upon a Variable O&M Costs delinquency of Reclamation:

612 i. The Sites Authority shall use its best efforts to  
613 facilitate a sale(s) of any or all Sites Water from Reclamation's Capacity Interest to cover the  
614 Delinquent Amount, including the reimbursement of the Sites Authority for all reasonable out-  
615 of-pocket costs, expenses, disbursements and losses which shall have been paid, incurred or  
616 sustained by the Sites Authority in connection with the sale of Sites Water to cover  
617 Reclamation's Delinquent Amount;

618 ii. Reclamation shall have no right to utilize Sites  
619 Water in its Capacity Interest, no right to otherwise utilize its Capacity Interest, and agrees to  
620 allow other Storage Partners to utilize its Capacity Interest until its account is no longer  
621 delinquent; and



644 (ii) Any other non-physical rights, interests, or obligations related to  
645 the Sites Project.

646 (b) The offer to sell shall follow the process in Exhibit E, II (e) as if the Sites  
647 Authority were the selling Storage Partner.

648 (c) If any Storage Partners proceed with purchase of Project Assets, then the  
649 Sites Authority and such purchasing Storage Partners shall work in good faith to close upon the  
650 sale of such interests within 180 days after the appraiser panel's determination of fair market  
651 value.

652 (d) Upon adoption of a Wind-Up Resolution by the Sites Authority, the Sites  
653 Authority shall appoint a winding-up agent (the "**Winding-Up Agent**"). The Winding-Up Agent  
654 shall, upon expiration of the time for the Storage Partners to accept the offer described in  
655 subarticle (a), prepare a plan for disposition of the Project Assets, which shall include plans for  
656 mitigating or remediating any hazardous or unsafe conditions that are a direct result of the  
657 construction of the Sites Project. Upon approval of the Sites Authority, the Winding-Up Agent  
658 shall implement the disposition of the Project Assets in accordance with the plan for disposition,  
659 including the disposition of unexpended funds held by the Sites Authority to the Storage  
660 Partners. Non-cash assets shall be liquidated by the Winding-Up Agent in a commercially  
661 reasonable manner. Proceeds from the disposition of Project Assets and any other cash or cash  
662 equivalents then held by the Sites Authority shall first be used, based on the Pro-rata Cost Share,  
663 to pay the following amounts in the following order of priority (i) repay debts of the Sites  
664 Authority incurred for funding the Sites Project; provided, however, that any monies contributed  
665 by a self-funding Storage Partner and held at the time of a winding-up shall not be used to repay  
666 debts of the Sites Authority incurred for financing the Sites Project, (ii) pay the costs of

667 mitigating or remediating hazardous or unsafe conditions associated with the Sites Project  
668 pursuant to the plan for disposition of the Project Assets, and (iii) distribute cash to the Storage  
669 Partners having satisfied their share of Sites Project Costs, provided that any unexpended funds  
670 which the Sites Authority received from Reclamation will be returned to Reclamation. Any  
671 remaining funds shall then be distributed to the Storage Partners based on their- Pro-rata Cost  
672 Share. Subject to the Sites Authority's Records Management Policy, Storage Partners shall be  
673 entitled to copies of any work products developed by the Sites Authority or its consultants on  
674 behalf of the Storage Partners, and the Sites Authority shall convey to the Storage Partners, as  
675 tenants in common with all other Storage Partners who are not in default under the Benefits and  
676 Obligations Contract, a pro-rata interest based on the Pro-rata Cost Share in all real and personal  
677 property remaining after implementation of the plan for disposition of the Project Assets in  
678 accordance with this Section.

679 (e) Upon completion of the winding-up process described in this Section, the  
680 Sites Authority shall adopt a resolution of termination of the Sites Project. Upon the adoption of  
681 such resolution, all Capacity Interests shall be terminated.

682 (f) The Parties agree that any activities performed under this Article shall be  
683 subject to applicable Federal, State, and local law.

## 684 DISPUTE RESOLUTION

685 12. Should any dispute arise concerning any provision(s) of this Agreement, or the  
686 Parties' rights and obligations thereunder, the United States and the Sites Authority shall meet  
687 and confer in an attempt to informally resolve the dispute at the staff level. Both Parties agree to  
688 work in good faith to resolve any disputes which may arise. If staff from the Parties are unable to

689 resolve the dispute, the dispute will be elevated to the Area Manager for Reclamation and  
690 Executive Director or designee of the Sites Authority. If the Parties are unable to resolve the  
691 dispute at this level, then the dispute will be elevated to the Regional Director of Reclamation  
692 and the Executive Director of the Sites Authority. If the Parties are unable to resolve the dispute  
693 at this level, the Parties may submit disputes to a third-party mediator agreed to by the Parties.  
694 Either Party may seek relief in a court of competent jurisdiction, consistent with Federal law and  
695 without waiving the United States' sovereign immunity from suit. Prior to the Sites Authority  
696 commencing any legal action, or the Contracting Officer referring any matter to the Department  
697 of Justice, the party shall provide to the other party thirty (30) days' written notice of the intent to  
698 take such action; *Provided*, that such notice shall not be required where a delay in commencing  
699 an action would prejudice the interests of the Party that intends to file suit. During the thirty (30)  
700 day notice period, the Parties shall meet and confer in an attempt to resolve the dispute. Except  
701 as specifically provided, nothing herein is intended to waive or abridge any right or remedy that  
702 the Sites Authority or the United States may have.

703 (a) Reclamation shall have no responsibility to participate in or resolve  
704 disputes between the Sites Authority and any of the Storage Partners regarding this Agreement.

705 (b) If the Sites Authority seeks to resolve a dispute with a Storage Partner,  
706 such resolution cannot impact Reclamation's investment or benefits, or violate the terms of this  
707 Agreement without Reclamation's consent.

708 **OPINIONS AND DETERMINATIONS**

709 13. Where the terms of this Agreement provide for actions to be based upon the  
710 opinion or determination of either Party to this Agreement, said terms shall not be construed as

711 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or  
712 determinations. Both Parties, notwithstanding any other provisions of this Agreement, expressly  
713 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,  
714 or unreasonable opinion or determination. Each opinion or determination by either Party shall be  
715 provided in a timely manner. Nothing in this Article is intended to or shall affect or alter the  
716 standard of judicial review applicable under Federal law to any opinion or determination  
717 implementing a specific provision of Federal law embodied in statute or regulation.

718 (a) Reclamation shall have the right to make determinations necessary to  
719 administer this Agreement that are consistent with the provisions of this Agreement, the laws of  
720 the United States, and the rules and regulations promulgated by the Secretary. Such  
721 determinations shall be made in consultation with the Sites Authority to the extent reasonably  
722 practicable.

723 (b) Nothing in this Agreement, or performance hereunder, constitutes a  
724 waiver of the Parties' respective positions, opinions, or interpretations of California water rights  
725 law, whatever they may be, in circumstances where there is no mutual agreement, as applicable  
726 herein, for the use of the Sites Project Facilities.

727 **WATER MEASUREMENT**

728 14. The Sites Authority is responsible for the measurement and recording of all Sites  
729 Water delivered pursuant to this Agreement up to and including the Delivery Point, and any  
730 additional location(s) mutually agreed to in writing by the Sites Authority and Reclamation.

731 (a) Prior to Completion, the Sites Authority shall ensure that the water  
732 measuring devices as shown in Exhibit B are installed and operating properly. The Sites

733 Authority will be responsible for installing, operating, maintaining, and repairing all such  
734 measurement devices. The equipment and methods used to make such measurement and  
735 recordings shall be in accordance with Good Industry Practices. Upon request of either party to  
736 this Agreement, the Sites Authority shall investigate, or cause to be investigated, the accuracy of  
737 such and shall take any necessary steps to adjust any errors appearing therein. For any period of  
738 time when accurate measurements have not been made, the Sites Authority shall consult with  
739 Reclamation prior to making a final determination of the quantity delivered for that period of  
740 time.

741 (b) After the Delivery Point, Reclamation shall ensure that Sites Water  
742 delivered under this Agreement is measured and supports the Sites Authority's applicable  
743 reporting on Sites Water and the Sites Water Right. The water measuring devices or water  
744 measuring methods of comparable effectiveness must be acceptable to the Sites Authority and  
745 Reclamation. Reclamation shall be responsible for installing, operating, maintaining, and  
746 repairing all such measuring devices and implementing all such water measuring methods at no  
747 cost to the Sites Authority. Reclamation shall provide the Sites Authority with the written  
748 quantity of water taken during the preceding month under this Agreement, on a mutually agreed  
749 upon schedule. Annual totals will be finalized on a mutually agreed upon schedule.

750 **SEVERABILITY**

751 15. In the event that any one or more of the provisions contained herein is, for any  
752 reason, held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or  
753 unenforceability will not affect any other provisions of this Agreement, but this Agreement is to  
754 be construed as if such invalid, illegal or unenforceable provisions had never been contained

755 herein, unless the deletion of such provision or provisions would result in such a material change  
756 so as to cause the fundamental benefits afforded to the Parties by this Agreement to become  
757 unavailable or materially altered.

758 **HOLD HARMLESS**

759 16. (a) The Sites Authority shall indemnify, defend, and hold harmless the United  
760 States, its officers, agents, and employees from and against any and all claims, damages, losses,  
761 liabilities, and expenses arising out of or resulting from the United States' work under this  
762 Agreement to the extent that such work constitutes Allowable Costs, provided the claims,  
763 damages, losses, liabilities, or expenses are not the result of any willful or negligent acts or  
764 omissions on the part of the United States. The Sites Authority will not assert that Reclamation,  
765 its Regional Director, officers, agents, employees or assigns, are liable for damages of any nature  
766 whatsoever arising out of any actions or omissions by the Sites Authority, its directors, officers,  
767 agents, employees or assigns, related to the Sites Authority's performance of this Agreement,  
768 where such liability is caused by an act, error or omission of the Sites Authority, its director,  
769 officers, agents, employees or assigns.

770 (b) The Parties agree that the Sites Authority, its officers, agents, and  
771 employees will not be liable for any claims arising out of or resulting from the Unites States'  
772 control, carriage, handling, use, disposal, or distribution of Sites Water beyond the Delivery  
773 Point, except for any damage or claims arising in connection with (i) acts or omissions of the  
774 Sites Authority or any of its directors, officers, employees, agents, and assigns with the intent of  
775 creating the situation resulting in any damage or claim; (ii) willful misconduct of the Sites  
776 Authority or any of its directors, officers, employees, agents, and assigns; (iii) negligence of the

777 Sites Authority or directors, officers, employees, agents, and assigns; (iv) damage or claims  
778 resulting from a malfunction of a Sites Project Facility.

779 (c) Nothing herein shall be deemed to increase the liability of Reclamation  
780 beyond the provisions of the Federal Tort Claims Act (28 U.S.C. 2671, et seq.). This Article is  
781 subject to available appropriations and shall not be construed as to allow for violation of the  
782 Anti-Deficiency Act (31 U.S.C. 1341, et seq.).

783 **NOTICES**

784 17. Any notice, demand, or request authorized or required by this Agreement shall be  
785 deemed to have been given, on behalf of the Sites Authority, when mailed, postage prepaid, or  
786 delivered to the Regional Director, California Great Basin Region, Bureau of Reclamation, 2800  
787 Cottage Way, Sacramento, CA, 95825, and on behalf of the United States, when mailed, postage  
788 prepaid, or delivered to the Sites Authority, 122 Old Highway 99 West, Maxwell, CA 95955.

789 **CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS**

790 18. The expenditure or advance of any money or the performance of any obligation of  
791 the United States under this Agreement shall be contingent upon appropriation or allotment of  
792 funds. Absence of appropriation or allotment of funds shall not relieve the Sites Authority from  
793 any obligations under this Agreement. No liability shall accrue to the United States in case funds  
794 are not appropriated or allotted.

795 **OFFICIALS NOT TO BENEFIT**

796 19. No Member of or Delegate to the Congress, Resident Commissioner, or official of  
797 the Sites Authority shall benefit from this Agreement other than as a water user or landowner in  
798 the same manner as other water users or landowners.

799 **ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED**

800 20. (a) The provisions of this Agreement shall apply to and bind the successors  
801 and assigns of the Parties hereto, but no assignment or transfer of this Agreement or any right or  
802 interest therein by either Party shall be valid until approved in writing by the other Party.

803 (b) Reclamation shall not unreasonably withhold its consent to an assignment  
804 of the Sites Authority's rights and obligations under this Agreement to a third party.

805 **BOOKS, RECORDS, AND REPORTS**

806 21. The Sites Authority shall establish and maintain accounts and other books and  
807 records pertaining to administration of the terms and conditions of this Agreement, including the  
808 Sites Authority's financial transactions; water supply data; Sites Project operation, maintenance,  
809 and replacement logs; Sites Project land and rights-of-way use agreements; the water users' land-  
810 use (crop census), land-ownership, land-leasing, and water-use data; and other matters that the  
811 Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such  
812 form and on such date or dates as the Contracting Officer may require. Subject to applicable  
813 Federal laws and regulations, each Party to this Agreement shall have the right during office  
814 hours to examine and make copies of the other Party's books and records relating to matters  
815 covered by this Agreement.

816 **COMPLIANCE WITH LAWS**

817 22. (a) The Parties agree that the use of Federal Facilities pursuant to this  
818 Agreement is subject to Federal Reclamation law and the rules and regulations promulgated by  
819 the Secretary of the Interior under Federal Reclamation law.

820 (b) The Contracting Officer shall have the right to make determinations  
821 necessary to administer this Agreement that are consistent with its expressed and implied  
822 provisions, the laws of the United States and the rules and regulations promulgated by the  
823 Secretary of the Interior. Such determinations shall be made in consultation with the Sites  
824 Authority.

825 (c) In protecting the interests of the United States, Reclamation's contracts  
826 and its contracting process must comply with all applicable Federal, state, tribal, and local laws.  
827 The Sites Authority shall comply with all applicable Federal, State, and local laws, executive  
828 orders, rules and regulations applicable to its performance under this Agreement. These laws  
829 may include environmental, civil rights, and cultural resources protection laws, among others, as  
830 well as laws that may be later enacted.

831

**COMPLIANCE WITH CIVIL RIGHTS**

832           23.     (a)     The Sites Authority shall comply with Title VI of the Civil Rights Act of  
833 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title  
834 V, as amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135,  
835 Title III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub.  
836 L. 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the  
837 applicable implementing regulations and any guidelines imposed by the U.S. Department of the  
838 Interior and/or Bureau of Reclamation.

839                   (b)     These statutes prohibit any person in the United States from being  
840 excluded from participation in, being denied the benefits of, or being otherwise subjected to  
841 discrimination under any program or activity receiving financial assistance from the Bureau of  
842 Reclamation on the grounds of race, color, national origin, disability, or age. By executing this  
843 Agreement, the Sites Authority agrees to immediately take any measures necessary to implement  
844 this obligation, including permitting officials of the United States to inspect premises, programs,  
845 and documents.

846                   (c)     The Sites Authority makes this Agreement in consideration of and for the  
847 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other  
848 Federal financial assistance extended after the date hereof to the Sites Authority by the Bureau of  
849 Reclamation, including installment payments after such date on account of arrangements for  
850 Federal financial assistance which were approved before such date. The Sites Authority  
851 recognizes and agrees that such Federal assistance will be extended in reliance on the  
852 representations and agreements made in this article and that the United States reserves the right  
853 to seek judicial enforcement thereof.

854                   (d)     Complaints of discrimination against the Sites Authority shall be  
855 investigated by the Contracting Officer's Office of Civil Rights.

856

**REPORTING REQUIREMENTS**

857           24.     The Sites Authority shall provide Reclamation with progress and financial status  
858 reports to support disbursements under Exhibit A and reporting requirements under Federal  
859 Reclamation law. If the reporting requirements of the funding mechanism utilized to disburse  
860 funds to the Sites Authority does not conflict with (a) and (b) below, the Sites Authority will  
861 submit reports to Reclamation pursuant to this Article.

862                   (a)     Progress Reports: As of the Effective Date through Completion, the Sites  
863 Authority shall provide semi-annual progress reports. Progress reports must contain a narrative

864 of the work accomplished, descriptions of the contracts, major subcontracts, and modifications  
865 implemented during the reporting period, architect, and engineer (A/E) service deliverables, the  
866 percentage of work completed, the Completion status, and any problems encountered, and  
867 corrective actions taken. Any issues that impact or may pose a future risk to cost, scope, or  
868 schedule will be identified. The report will include an updated schedule.

869 (b) Financial Reports: As of the Effective Date through Completion, the Sites  
870 Authority shall provide semi-annual financial reports using Standard Form-425 (Federal  
871 Financial Report).

872 **FUNDS TO BE PROVIDED**

873 25. In accordance with the Prompt Payment Act, Reclamation shall transmit payment  
874 to the Sites Authority subject to Article 5, Article 10 and Article 18.

875 (a) As of the Effective Date, the total amount of funding available for  
876 contribution by Reclamation under the WIIN Act PL 114-322 and the Infrastructure Investment  
877 and Jobs Act PL 117-58 is \$X,XXX,XXX,XXX. The Parties understand that if Reclamation  
878 receives additional funding for the Sites Project it may be disbursed by Reclamation as deemed  
879 appropriate by Reclamation.

880 (b) Upon the Effective Date, any additional funds not required by Exhibit A  
881 may be transmitted to the Sites Authority, provided that any such advance of funds shall be  
882 released in as many installments as Reclamation deems necessary. The Sites Authority may  
883 request an advance of funds in addition to funds required by Exhibit A; provided that, the Sites  
884 Authority must provide Reclamation written justification for the immediate need for the funds

885 requested, including how the funds would be applied, and Reclamation shall have the final  
886 determination of how and when installments are transmitted.

887 (c) The Sites Authority will deposit each payment in an individual insured  
888 account or accounts for Reclamation, established and held by the Sites Authority, separate and  
889 apart from the Sites Authority's other funds and accounts, and shall apply such amount,  
890 including the investment earnings thereon, to pay Reclamation's proportionate share of Sites  
891 Project Costs in accordance with the terms of this Agreement. Such accounts and any  
892 investments shall be held in compliance with applicable law.

893 (d) The Sites Authority will provide Reclamation with an invoice for  
894 Reclamation's share of Fixed Project Costs, Fixed O&M Costs, Variable O&M Costs based on  
895 such costs anticipated to be incurred during the following quarter based on Exhibit A and billing  
896 statements as applicable, and payment shall be due within thirty (30) days of issuance of an  
897 invoice.

898 (d)(e) In the event any amount due to the Sites Authority from Reclamation under this  
899 Agreement are not paid when due, in addition to exercising any rights afforded the Sites Authority under  
900 Article 12 or any other right or remedy the Sites Authority may have, the Sites Authority will receive  
901 interest on the Delinquent Payment Amount pursuant to the Prompt Payment Act, as amended (31 USC  
902 3901, et seq.); Provided that, the Sites Authority shall have previously submitted appropriate invoices to  
903 Reclamation pursuant to Article 10. Such costs shall not be credited toward Reclamation's share of Sites  
904 Project Costs.

905 (e)

906 **MEDIUM FOR TRANSMITTING PAYMENTS**

907 26. (a) All payments from the Sites Authority to the United States under this  
908 Agreement shall be by the medium requested by the United States on or before the date payment

909 is due. The required method of payment may include checks, wire transfers, or other types of  
910 payment specified by the United States.

911 (b) Upon execution of the Agreement, the Sites Authority shall furnish the  
912 Contracting Officer with the Sites Authority's taxpayer's identification number (TIN). The  
913 purpose for requiring the Sites Authority's TIN is for collecting and reporting any delinquent  
914 amounts arising out of the Sites Authority's relationship with the United States.

915 **GOVERNANCE**

916 27. The Parties agree that Exhibit I describes Reclamation's involvement in Sites  
917 Project governance. No other rights or duties are authorized to Reclamation under this  
918 Agreement unless specified herein.

919  
920

921 **AGREEMENT DRAFTING CONSIDERATIONS**

922 27:28. This Agreement has been negotiated and reviewed by the Parties hereto, each of  
923 whom is sophisticated in the matters to which this Agreement pertains. The double-spaced  
924 Articles of this Agreement have been drafted, negotiated, and reviewed by the Parties, and no  
925 one Party shall be considered to have drafted the stated articles. Single-spaced articles are  
926 standard articles pursuant to Reclamation policy.

