

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

**AGREEMENT BETWEEN  
THE UNITED STATES AND  
THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY  
FOR THE MANAGEMENT OF THE EXPANDED SAN LUIS RESERVOIR  
AND COST SHARE OF CHARGES  
ASSOCIATED WITH RAISING OF THE B.F. SISK DAM  
AND INCREASED STORAGE CAPACITY  
OF THE FEDERALLY ADMINSTERED SAN LUIS RESERVOIR**

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1           THIS AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 2024, pursuant  
2 to the Reclamation Act of 1902 as amended (32 Stat. 388; 43 U.S.C. Part 391); including the Act  
3 of February 21, 1911 (36 Stat. 925), the Reclamation Project Act of 1939, as amended (53 Stat.  
4 1187; 43 U.S.C. Part 485); the San Luis Act of 1960, as amended (Public Law 86-488, 74 Stat.  
5 156); the Reclamation Safety of Dams Act of 1978 (Public Law 95-578, 92 Stat. 2471); the  
6 Reclamation Reform Act of 1982, as amended (Public Law 97-293, 96 Stat. 1261); and Section  
7 305 of the Reclamation States Emergency Drought Relief Act of 1991, enacted March 5, 1992  
8 (106 Stat. 59), the Central Valley Project Improvement Act of 1992, as amended (Public Law  
9 102-575, 106 Stat. 4706); and the Water Infrastructure Improvement for the Nation Act of 2016  
10 (Public Law 114-322, 130 Stat. 1865); made between the UNITED STATES BUREAU OF  
11 RECLAMATION hereinafter the United States or Reclamation, and represented by the officer

12 executing this Agreement, hereinafter referred to as the Contracting Officer, and the SAN LUIS  
13 & DELTA-MENDOTA WATER AUTHORITY, hereinafter referred to as the Authority,  
14 individually referred to as “Party” and collectively referred to as “Parties”.

#### 15 **EXPLANATORY RECITALS**

16 [1<sup>st</sup>] WHEREAS, the United States has constructed and is operating the Central Valley  
17 Project (“CVP”) for diversion, storage, carriage, and distribution of waters of the Sacramento  
18 River, the American River, the Trinity River, and the San Joaquin River and their tributaries for  
19 irrigation and other beneficial uses to serve CVP purposes; and

20 [2<sup>nd</sup>] WHEREAS, the United States holds title, and plans to continue to hold title to the  
21 B.F. Sisk Dam and San Luis Reservoir and authorized features of the San Luis Unit as provided  
22 for in the San Luis Act of 1960; and

23 [3<sup>rd</sup>] WHEREAS, the San Luis Act of 1960 (Public Law 86 – 488, 74 Stat. 156)  
24 authorized the Secretary of the Interior to construct, operate, and maintain an afterbay, forebay,  
25 conveyance facilities, and dam and Reservoir for the joint use by the State of California and the  
26 United States, and as provided in Section 2 of the Act, the Secretary was authorized to enter into  
27 an agreement with the State of California to provide for the coordinated operation of the San  
28 Luis Unit, which resulted in a 1961 Joint Coordination Agreement and subsequent amendatory  
29 and supplemental agreements of 1972 and 1997; and

30 [4<sup>th</sup>] WHEREAS, the United States was authorized to construct the San Luis Unit of  
31 the CVP, a joint use project, shared with the State of California and administered through the  
32 Department of Water Resources, hereinafter referred to as “DWR,” the operations of which are  
33 coordinated between Reclamation and DWR consistent with the 1961 Agreement and all  
34 supplements and amendments; and

35 [5<sup>th</sup>] WHEREAS, consistent with the San Luis Act of 1960, Reclamation and DWR  
36 share responsibility for the costs of operation, maintenance, and replacement of B.F. Sisk Dam  
37 and San Luis Reservoir, consistent with the 1961 Agreement Between the United States of  
38 America and The Department of Water Resources of the State of California for the Operation of  
39 the San Luis Unit and all supplements and amendments, Contract No. 14-06-200-9755 (1961  
40 Agreement); and

41 [6<sup>th</sup>] WHEREAS, Reclamation and DWR share responsibility for coordinating  
42 operations of the CVP and the State Water Project, hereinafter referred to as “SWP,” and for  
43 meeting Sacramento-San Joaquin Delta water quality objectives and other operational  
44 requirements pursuant to the 1986 Coordinated Operations Agreement between Reclamation and  
45 DWR, as amended; and

46 [7<sup>th</sup>] WHEREAS, Reclamation, in coordination with DWR, initiated extraordinary  
47 maintenance work for the B.F. Sisk Safety of Dams Modification Project to improve the safety  
48 of the continued operation and maintenance of aforementioned dam; and

49 [8<sup>th</sup>] WHEREAS, consistent with Reclamation’s Directives and Standards at CMP 09-  
50 02 and FAC 06-05, Reclamation is authorized to assess the feasibility of increasing San Luis  
51 Reservoir storage capacity in conjunction with the Safety of Dams improvements to determine if  
52 there are additional project benefits and to ensure that it is in the best interest of the United  
53 States; and

54 [9<sup>th</sup>] WHEREAS, in accordance with the Reclamation Safety of Dams Act of 1978  
55 (Public Law 95-578, 92 Stat. 2471) and 43 U.S.C. § 509 b, to develop additional project benefits,  
56 through the B.F. Sisk Dam Safety of Dams Modification Report, in December 2020, the  
57 Expansion Project was determined to be feasible; and

58 [10<sup>th</sup>] WHEREAS, following the finding of feasibility, in accordance with §4007 of the  
59 Water Infrastructure and Improvement for the Nation Act, hereinafter referred to as “WIIN”  
60 (Public Law 114-322), on October 20, 2023, Congress authorized construction and associated  
61 funding for the B.F. Sisk Dam Raise and Reservoir Expansion Project; and

62 [11<sup>th</sup>] WHEREAS, in accordance with Section 4007(e) of the WIIN Act, which  
63 provides “[s]ubject to compliance with State water rights laws, the right to use capacity of a  
64 *federally owned storage project... shall be allocated in such a manner as may be mutually*  
65 *agreed to by the Secretary of the Interior and each party to the agreement,”* the Parties agree that  
66 this Agreement, as may be amended, provides for the mutually agreeable use of the Expanded  
67 Reservoir to the extent consistent with Federal Law; and

68 [12<sup>th</sup>] WHEREAS, the Authority certified, and Reclamation signed, a Record of  
69 Decision on October 20, 2023, for the Environmental Impact Statement/Report entitled B.F. Sisk  
70 Dam Raise and Reservoir Expansion Project, selecting the Dam Raise Alternative; and

71 [13<sup>th</sup>] WHEREAS, consistent with WIIN §4007(b)(2), Reclamation and the Authority  
72 agree to enter into this Agreement for up to 50% Federal share of the costs of the Expansion  
73 Project including, but not limited to, planning, design, and construction, and as further defined in  
74 this Agreement; and

75 [14<sup>th</sup>] WHEREAS, consistent with WIIN §4007(e), Reclamation representing the United  
76 States, and the Authority, through the B.F. Sisk Dam Raise and Reservoir Expansion Project  
77 Activity Agreement, as may be amended or supplemented, representing Investors who will  
78 collectively share in the costs and benefits of the Expansion Project, desire to use the Expansion  
79 Project in a such a manner as may be mutually agreeable to the Parties hereto; and

80 [15<sup>th</sup>] WHEREAS, other agreements and/or contracts necessary for commencing design,  
81 construction, and/or operation of the Expanded Reservoir may be necessary and may be  
82 incorporated into this Agreement, and which may include, but are not limited to, a contributed  
83 funds agreement providing for the contribution of funds from Federal cost share partners  
84 (§4007(b)(3)(b)) and §4011(e)(2)), an OM&R Agreement, a Repayment Contract providing for  
85 repayment of reimbursable obligations (§4007(b)(3)(c) and 4011(e)(2)), as appropriate, a Spend  
86 Plan; and a Coordination Agreement; and which may require further delegation of authority from  
87 the Commissioner of Reclamation to negotiate and make a part of this Agreement; and

88 NOW, THEREFORE, the Parties desire to manage the additional capacity associated  
89 with the expansion of San Luis Reservoir and share in the costs pertaining to the Expanded  
90 Reservoir consistent with and in consideration of the mutual and dependent covenants herein, the  
91 Parties hereto agree as follows:

92 **DEFINITIONS**

93 1. When used herein unless otherwise distinctly expressed, or manifestly  
94 incompatible with the intent of the Parties as expressed in this Agreement, the term:

95 (a) “Acquired Project Water” shall mean Project Water acquired by an  
96 Investor, from another CVP Water Service/Repayment Contractor, CVP Settlement Contractor,  
97 San Joaquin River Exchange Contractor, any other CVP contractor, or from Reclamation.

98 (b) “Calendar Year” shall mean the period January 1 through December 31,  
99 both dates inclusive.

100 (c) “Contracting Officer” shall mean the Secretary of the Interior's duly  
101 authorized representative acting pursuant to this Agreement or applicable Federal Reclamation  
102 law or regulation.

103 (d) “Contributed Funds Agreement” shall mean the agreement by which the  
104 Authority contributes to the cost of the Expansion Project, entered into pursuant to the Sundry  
105 Civil Appropriations Act of March 4, 1921 (Pub. L. 66-389; 41 Stat. 1404; 43 USC 395).

106 (e) “Coordination Agreement” shall mean the agreement provided for in  
107 subarticle 4(j) of this Agreement.

108 (f) “Expanded Reservoir” shall mean the combined volume of storage in the  
109 Federal Share and the Investor Share of the expanded San Luis Reservoir resulting from the  
110 Expansion Project.

111 (g) “Expansion Project” shall mean the B.F. Sisk Dam Raise and Reservoir  
112 Expansion Project, consistent with the Record of Decision, dated October 20, 2023, as may be  
113 amended or supplemented, which would raise B.F. Sisk Dam an additional ten feet and provide  
114 an additional estimated 130 thousand acre feet (TAF) of storage in San Luis Reservoir.

115 (h) “Federal Share of Expanded Reservoir” shall mean the storage volume of  
116 the Expanded Reservoir commensurate with the Federal level of investment in the Expansion  
117 Project.

118 (i) “Federal Share of Historic Reservoir” shall mean the storage volume of  
119 966 TAF in the Historic Reservoir.



120 (j) “Historic Reservoir” shall mean the total storage volume of 2.028 Million  
121 Acre-Feet (“MAF”) in San Luis Reservoir.

122 (k) “Investor Share of Expanded Reservoir” shall mean the storage volume of  
123 the Expanded Reservoir commensurate with the Investors’ level of investment in the Expansion  
124 Project.

125 (l) “Investors” shall mean those entities and/or organizations that are  
126 represented by the Authority pursuant to the B.F. Sisk Dam Raise and Reservoir Expansion  
127 Project Activity Agreement and all supplements and amendments.

128 (m) “Municipal and Industrial Water Shortage Policy” or “M&I Water  
129 Shortage Policy” shall mean the policy intended to provide clear and objective guidelines on the  
130 water supplies available from the CVP during a Condition of Shortage, as that term is defined in  
131 the Water Service/Repayment Contracts.

132 (n) “Non-Project Water” shall mean all water acquired that has not been  
133 appropriated or acquired by the United States and as further described herein.

134 (o) “Operation, Maintenance and Replacement Agreement” or “OM&R  
135 Agreement” shall mean the agreement between the United States and the Authority providing for  
136 the operation, maintenance, and replacement of the Expansion Project.

137 (p) “Parties” shall mean Reclamation on behalf of the United States and the  
138 Authority on behalf of the Investors.

139 (q) "Project Water" shall mean all water that is developed, diverted, stored, or  
140 delivered by the Secretary in accordance with the statutes authorizing the Project and in  
141 accordance with the terms and conditions of water rights acquired pursuant to California law.

142 (r) "Repayment Contract" shall mean a new contract resulting from the  
143 Expansion Project, if any, the purpose of which is to recover any reimbursable costs, entered into  
144 pursuant to Section 9(c)(1) and/or 9(d) of the Reclamation Project Act of 1939, as amended.

145 (s) "San Luis Reservoir" shall mean the Historic Reservoir and the Expanded  
146 Reservoir.

147 (t) "San Luis Rescheduling Guidelines" shall mean the Rescheduling  
148 Guidelines for the Federal Share of Storage in San Luis Reservoir, Central Valley Project,  
149 California Great Basin Region, dated January 31, 2022, as may be amended or superseded,  
150 which apply only to the Historic Reservoir.

151 (u) "Spend Plan" shall mean the plan provided for in subarticle 3(e) of this  
152 Agreement.

153 (v) "Substantial Completion" shall have the same meaning as defined in FAC  
154 01-05 as amended or supplemented.

155 (w) "Water Master/Manager" shall mean the individual provided for in  
156 subarticle 4(c)(3)(i) of this Agreement.

157 (x) "Year" shall mean the period from and including March 1 of each Calendar  
158 Year through the last day of February of the following Calendar Year.

159

**TERM OF AGREEMENT**

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2. (a) This Agreement is effective on the date hereinabove written, and will

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remain in full force during the duration of the useful life of the Project or until terminated.

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(b) The Contracting Officer may terminate this Agreement at any time before

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the expiration of its term whenever the Contracting Officer determines that the Authority is in

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substantial violation of the Agreement as provided in this subarticle 2(b) or otherwise in

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violation of Federal law or Reclamation Policy; provided, that prior to the effective date of any

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such termination, the Contracting Officer shall first notify the Authority in writing of, the

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specific purported deficiencies of the Authority in carrying out the terms and conditions of this

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Agreement. It is the intent of the Parties that disputes be resolved pursuant to this subarticle 2(b)

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as expeditiously as is reasonably possible without the necessity of other relief at law or in equity.

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If after the designated representative of the Authority has met with the Contracting Officer or his

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or her designated representative and attempt in good faith and with the use of best efforts to

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resolve any dispute arising from the purported deficiency an agreement is not reached, the

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Contracting Officer may issue a notice of proposed termination, which includes the specific

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deficiencies of the Authority's performance under this Agreement. The Authority shall have at

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least ninety (90) days from receipt of the written notice of proposed termination to correct all

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deficiencies referred to in said written notice. Any termination pursuant to this Article shall be

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subject to the rights and obligations of the Parties as more specifically set forth in this

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Agreement.

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(c) The United States and the Authority jointly shall review this Agreement,

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which review shall be performed at least every five (5) years. A more frequent review will occur

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if determined to be appropriate by the Contracting Officer, or if requested by the Authority. The

182 review shall compare the relative success which each party has had in meeting its objectives,  
183 including, but not limited to, the Contributed Funds Agreement, an OM&R Agreement, a  
184 Repayment Contract, a Spend Plan, and a Coordination Agreement, which agreements will be  
185 exhibits to this Agreement. These exhibits may require modification, which will be mutually  
186 agreed upon without amendment to this Agreement.

187 (d) This Agreement may be modified, amended, or terminated upon mutual  
188 agreement of the Parties in writing. All duties and obligations of the Parties under this  
189 Agreement will cease upon termination except as to any provisions that expressly survive the  
190 termination of the Agreement.

### 191 **COST SHARE**

192 3. As provided for in WIIN §4007(b)(2), Reclamation may fund up to 50% of the  
193 Expansion Project costs so long as the benefits from the Expansion Project are commensurate  
194 with the Federal investment.

195 (a) Reclamation has the authority to share up to 50% of the costs of the  
196 Expansion Project; however, Reclamation and the Authority have agreed to an initial 70%  
197 Investor Share of Expanded Reservoir and a 30% Federal Share of Expanded Reservoir.

198 (1) Upon the determination of “Substantial Completion” of  
199 construction of the Expansion Project, Reclamation and the Authority will meet and confer  
200 within a reasonable time frame to complete a final accounting of Expansion Project benefits to  
201 determine and mutually agree upon final storage benefits of the Expansion Project and the  
202 allocation to Reclamation and the Authority. The final storage benefits attributable to the Parties  
203 will be documented in an exhibit to this Agreement. Reclamation, in coordination with the

204 Authority, will assess the Expansion Project costs and make a determination of which Expansion  
205 Project costs are reimbursable and which Expansion Project costs are non-reimbursable.

206 (b) Eligible Expansion Project costs are as follows and will be shared in  
207 accordance with subarticle 3(a)(1) of this Agreement:

208 (1) The Parties have reviewed the Expansion Project costs incurred by  
209 the Authority and the Investors and Reclamation prior to the effective date of this Agreement.  
210 The Parties acknowledge and agree that the Investors have incurred costs totaling \$ \_\_\_\_\_  
211 and Reclamation has incurred costs totaling \$ \_\_\_\_\_, which allowable amounts will be credited  
212 to each Party's cost share obligation under this Agreement.

213 (2) Planning Costs: In an effort to reach a finding that the Expansion  
214 Project is feasible, certain planning level investigations were necessary and may continue to be  
215 necessary prior to commencement of construction. Such planning investigations will be  
216 consistent with Reclamation's Directives and Standards in accordance with CMP 09-02.

217 (3) Environmental Mitigation and Compliance Costs: Either Party may  
218 fund environmental mitigation and compliance activities associated with this Agreement. These  
219 activities may include, but are not limited to, contracts for technical assistance in environmental  
220 mitigation, funding of environmental mitigation commitments, and any actions to ensure  
221 consistency with the State California Environmental Quality Act (CEQA) or Federal National  
222 Environmental Policy Act (NEPA) laws and regulations.

223 (4) Cultural Resource Management Costs: Either Party may fund  
224 cultural studies, investigations, and mitigation needs consistent with this Agreement.  
225 Reclamation will be responsible for all necessary consultations with state offices, Indian tribes,

226 and interested parties pursuant to Section 106 of the National Historic Preservation Act of 1966,  
227 as amended. Reclamation will be responsible for compliance and coordination with the Native  
228 American Graves Protection and Repatriation Act of 1990.

229 (5) Permitting Costs: Additional permitting actions prior to  
230 construction of the Expansion Project and prior to declaring the Expansion Project “Substantially  
231 Complete” may be required. The Parties will jointly determine, as appropriate, the appropriate  
232 Party to obtain any necessary permit(s), and the appropriate cost share for the permitting actions.

233 (6) Administrative Costs: Reclamation will reserve sufficient funding  
234 from Federal appropriations to cover its administrative and management costs associated with  
235 the Expansion Project. This amount will be considered part of the overall Federal contribution.  
236 Reclamation will provide an estimate of the administrative costs for this Expansion Project  
237 which will be reviewed with the Authority. The Authority will reserve sufficient funding to pay  
238 for its administrative costs for the non-Federal share of the Expansion Project. These costs will  
239 be considered contributions to the non-Federal share of the Expansion Project and reported  
240 pursuant to subarticle 3(f) of this Agreement. Administrative costs include, unless otherwise  
241 defined by contracts: project management, construction management, accounting and  
242 administrative management, legal support and review, travel, general meetings related to the  
243 Expansion Project, contract/agreement technical meetings and negotiations, and other supportive  
244 services and activities necessary for the construction and operation of the Expansion Project  
245 prior to the determination of Substantial Completion.

246 (7) Design Costs: Either party may pay for part or all of various design  
247 costs for the Expansion Project. Reclamation will be responsible for design of the embankment

248 of the San Luis Reservoir, but the Authority may contribute funds that will count towards the  
249 cost share. There may be the need for modifications during construction that may require further  
250 design work. These costs will be shared in accordance with subarticle 3(a)(1).

251 (8) Construction Costs: Reclamation will serve as the procurement  
252 agency for, and will manage, the primary construction contract with respect to the embankment  
253 raise. All costs for this contract will be funded directly by Reclamation or with funds  
254 contributed to Reclamation by the Authority or the Investors.

255 (9) Other Design and Construction Costs: Either party may pay for  
256 part, or all of the remaining non-embankment design and construction costs of associated  
257 facilities affected or involved with the Expansion Project including, but not limited to, recreation  
258 facilities, power improvements to existing facilities, improvements to pumps, transportation, and  
259 other various components of the Expansion Project.

260 (c) Reclamation and the Authority have proposed using their collective funds  
261 to fund parts of the Expansion Project. A contributed funds agreement may be necessary to help  
262 facilitate transfer of funds to Reclamation from the Authority. Such an agreement, if needed, will  
263 be an exhibit to this Agreement. Any funds contributed to Reclamation for the Expansion Project  
264 will be considered part of the cost of this Expansion Project and shared in accordance with  
265 subarticle 3(a)(1).

266 (d) There may be times when Reclamation provides funds to the Authority.  
267 These funds will be provided through a financial assistance agreement. Any funds provided to  
268 the Authority for the Expansion Project will be considered part of the cost of this Expansion  
269 Project and shared in accordance with subarticle 3(a)(1).

270           (e)     Within sixty (60) days of the execution of this Agreement, if not before,  
271 Reclamation and the Authority will develop a Spend Plan containing mutually agreeable terms to  
272 track costs and account for funds expended. The Spend Plan will be an exhibit to this Agreement.

273           (f)     Reclamation and the Authority will establish, at a minimum, quarterly  
274 check-ins regarding costs expended for the Expansion Project and to discuss other items,  
275 including but not limited to, funding and any additional financial agreements.

276           (g)     Repayment: As currently formulated, Reclamation does not anticipate the  
277 need for a Repayment Contract for repayment of costs associated with the design and  
278 construction of the Expansion Project. Reclamation and the Authority will, at the quarterly  
279 check-ins described in subarticle (f) above, review the need for a Repayment Contract. If a  
280 Repayment Contract is necessary, Reclamation will seek delegated authority from the  
281 Commissioner to negotiate and execute said contract, which will be an exhibit to this Agreement.  
282 The Parties will closely monitor the potential for reimbursable costs and the need for a  
283 Repayment Contract and conduct any necessary financial analysis, in accordance with PEC 11-  
284 01, prior to executing any such contract.

285           (1)     It is anticipated that the Federal share of costs associated with the  
286 Expansion Project will be used for purposes deemed to be non-reimbursable, therefore the  
287 Federal share of costs associated with the Expansion Project will be non-reimbursable.

288           (2)     If reimbursable benefits are identified upon the final allocation of  
289 costs, Reclamation will establish appropriate recovery of said reimbursable costs consistent with  
290 Reclamation law and policy.



291 (h) The duties and obligations of the Parties under this Article 3 would  
292 expressly survive termination of this Agreement.

293 **MANAGEMENT OF EXPANDED RESERVOIR**

294 4. Responsibility for the costs of operation, maintenance, and replacement of B.F.  
295 Sisk Dam and San Luis Reservoir will continue to be governed by agreements between the  
296 United States and the State of California; the Authority and the Investors shall neither execute  
297 nor be a party to any agreement with the State of California for the operation and maintenance of  
298 the B.F. Sisk Dam and the Historic Reservoir or the Expanded Reservoir.

299 (a) The Parties will draft and finalize an OM&R Agreement for the Expansion  
300 Project prior to the first entry of any water subject to this Agreement into any CVP facilities. All  
301 future OM&R costs associated with the Expansion Project will be commensurate to each Party's  
302 final investment, unless otherwise agreed to by the Parties pursuant to subarticle 4(e)(3)(iii)a of  
303 this Agreement.

304 (b) Nothing in this Agreement shall imply or convey any rights or process to  
305 the Authority, the Investors, or their assignees for rights or privileges to water or operations in  
306 the Federal Share of Expanded Reservoir or the Historic Reservoir and the Authority agrees that  
307 it shall not seek these rights outside of this Agreement.

308 (c) The Parties agree that Reclamation and DWR retain the sole discretion  
309 over the operations of the Historic Reservoir.-Operations of the Expanded Reservoir will be  
310 consistent with existing laws, agreements, and obligations and pursuant to the terms of this  
311 Agreement and in consultation with the Authority and the Investors through the Water  
312 Master/Manager.

313 (d) Federal Share of Expanded Reservoir: The management of any water in  
314 the Federal Share of Expanded Reservoir is at the sole discretion of Reclamation and will be  
315 managed in such a way to be consistent with State and Federal law and existing and future  
316 agreements, guidelines, and programs for Federal benefits.

317 (e) Investor Share of Expanded Reservoir: Investors agree to use the Investor  
318 Share of Expanded Reservoir consistent with the terms of this Agreement, and the Parties agree  
319 that the Investors possess the ability to partner with non-Investor parties regarding the use,  
320 marketing, and/or lease of capacity within the Investor Share of Expanded Reservoir and/or the  
321 storage of water in the Investor Share of Expanded Reservoir. The Investors shall indemnify the  
322 United States, its officers, employees, and agents of damage or claim of any nature whatsoever  
323 for which there is any legal responsibility derived from these third-party agreements. Non-  
324 Project Water, Acquired Project Water, and/or Project Water will be stored in the Investor Share  
325 of Expanded Reservoir and moved out of the Investor Share of Expanded Reservoir subject to  
326 the terms of this Agreement. If an Investor has any water type available to move into the  
327 Investor Share of Expanded Reservoir at the same time that Reclamation has Project Water  
328 available to it to fill the Expanded Reservoir, and conveyance capacity is available, the Investor  
329 may determine which water type will be (or is) stored on its behalf in the Investor Share of  
330 Expanded Reservoir. Water stored in the Investor Share of Expanded Reservoir will not be  
331 subject to the San Luis Rescheduling Guidelines and will not be displaced, or “spill,” upon the  
332 filling of the Federal Share of Historic Reservoir.

333 (1) Non-Project Water

334 (i) With the exception of Non-Project Water that may already  
335 exist in the Historic Reservoir and/or SWP water conveyed through the SWP or under agreement  
336 with Reclamation, Non-Project Water is subject to a contract for the use of excess conveyance  
337 capacity in Federal facilities, pursuant to the Warren Act (Act of February 21, 1911 (36 Stat.  
338 925)), in order to convey Non-Project Water to or from the Historic Reservoir.

339 (ii) Storage of Non-Project Water in the Investor Share of  
340 Expanded Reservoir will not require a Warren Act Contract. However, any water that is stored in  
341 the Investor Share of Expanded Reservoir that may be moved into and accounted for in the  
342 Historic Reservoir will require a Warren Act Contract for storage in the Historic Reservoir.

343 (iii) For the purpose of this Agreement and consistent with the  
344 San Luis Rescheduling Guidelines, unless otherwise amended, San Joaquin River Restoration  
345 water recaptured consistent with permits issued by the State Water Resources Control Board, if  
346 acquired by an Investor or a non-Investor party through agreement with an Investor, will be  
347 treated as having the same priority as Non-Project Water and may be storable in the Investor  
348 Share of Expanded Reservoir if acquired by an Investor.

349 (iv) Reclamation will not use Non-Project Water to meet  
350 authorized CVP purposes as defined in subarticle 4(e)(4) of this Agreement until: (1) all  
351 available Federal supplies have been used by Reclamation, and (2) the Parties first mutually  
352 agree in writing to water or monetary compensation, subject to appropriations, or a combination  
353 thereof, prior to its use.

354 (v) M&I Shortage – Non-Project Water in the Investor Share  
355 of Expanded Reservoir will not be subject to nor accounted against an Investor's available water,

356 as contemplated in the M&I Water Shortage Policy, as may be amended or superseded, to meet  
357 minimum public health and safety needs.

358 (2) Acquired Project Water

359 (i) Reclamation will only use Acquired Project Water stored in  
360 the Investor Share of Expanded Reservoir: (1) to meet the unmet minimum deliveries for south-  
361 of-Delta San Joaquin River Exchange Contractors and Settlement Contractors in Shasta Critical  
362 Years, the unmet minimum CVPIA allocation for south-of-Delta Level 2 refuges, and the unmet  
363 public health and safety needs as defined by the M&I Water Shortage Policy as may be amended  
364 or superseded; (2) concurrently with all other CVP water supplies; (3) in coordination with the  
365 Water Coordinator per subarticle **XX**; and (4) with agreed upon compensation for Reclamation's  
366 use of Acquired Project Water, at the option of each Investor, as follows:

367 a. Subject to appropriations, Reclamation will pay the  
368 total acquisition cost of the water prior to any losses or the current year market rate (replacement  
369 cost) with a demonstration of proof, whichever is greater, for the full quantity of Acquired  
370 Project Water taken; or

371 b. Reclamation will compensate the Investor in future  
372 water at a rate of 2:1 in replacement for the water needed by Reclamation. The quantity of water  
373 returned cannot exceed the amount of water to be stored in the Investor Share of Expanded  
374 Reservoir. Any water returned will be considered Acquired Project Water upon its return; or

375 c. Subject to appropriations, Reclamation will  
376 compensate the Investor for half the total acquisition cost of the water prior to any losses or the  
377 current spot market rate (replacement cost) with a demonstration of proof, whichever is greater,

378 for the full quantity of Acquired Project Water taken, and will replace the water needed by  
379 Reclamation at a rate of 1:1. Any water returned will be considered Acquired Project Water upon  
380 its return.

381 (ii) M&I Shortage – Acquired Project Water in the Investor  
382 Share of Expanded Reservoir will be subject to the M&I Water Shortage Policy.

383 (3) Project Water

384 (i) Article 3(a) Water: Following the allocation of Water  
385 Made Available under Article 3(a) of an Investor’s Water Service/Repayment Contract, an  
386 Investor may direct the movement of allocated contract supply to the Investor Share of Expanded  
387 Reservoir, up to the maximum storage capacity of the Investor Share of Expanded Reservoir.

388 (ii) Article 3(f) Water: Each Investor holds a Repayment  
389 Contract that contains Article 3(f), which provides a mechanism for Reclamation to make  
390 “Article 3(f) water” available. For the purpose of this Agreement, the Contracting Officer will  
391 make Article 3(f) water available to Investors in addition to the Investors’ CVP contract  
392 allocation in every year that Article 3(f) is available, as described below:

393 a. Following the filling of the Federal Share of  
394 Historic Reservoir, Reclamation will make Article 3(f) water available to all south-of-Delta CVP  
395 contractors with demand for Article 3(f) water.

396 b. Upon making Article 3(f) water available,  
397 Reclamation will fill the Investor Share of Expanded Reservoir and the Federal Share of  
398 Expanded Reservoir on a proportionate basis in accordance with this Agreement.

399 1. Reclamation will fill the Expanded  
400 Reservoir until such a time that the Investor Share of Expanded Reservoir is full or the Investor  
401 Share and the Federal Share of Expanded Reservoir are full.

402 2. Any Article 3(f) water used to fill a portion  
403 of the Investor Share of Expanded Reservoir will be allocated to each Investor that has available  
404 capacity in the Expanded Reservoir.

405 3. Water made available under this subarticle  
406 4(e)(3)(ii) and stored in the Investor Share of Expanded Reservoir can be scheduled for delivery  
407 at a later date at the discretion of the Investors.

408 (iii) Reclamation, at its discretion, will only use Project Water  
409 in the Investor Share of Expanded Reservoir that was allocated in the current or immediately  
410 preceding Year (1) to meet the unmet minimum deliveries for south-of-Delta San Joaquin River  
411 Exchange Contractors and Settlement Contractors in Shasta Critical Years, the unmet minimum  
412 CVPIA allocation for south-of-Delta Level 2 refuges, and the unmet public health and safety  
413 needs as defined by the M&I Water Shortage Policy as may be amended or superseded; (2)  
414 concurrently with all other CVP water supplies; and (3) in coordination with the Water  
415 Coordinator per subarticle ~~XX~~. Further, Reclamation agrees it will not use an Investor's M&I  
416 Project Water stored in the Investor Share of Expanded Reservoir to meet these authorized CVP  
417 purposes in a Shasta Critical Year or in any Year in which a public health and safety allocation  
418 under the M&I Shortage Policy as may be amended or superseded is declared or anticipated to be  
419 declared. Under these conditions Investors will use this M&I Project Water to meet unmet public  
420 health and safety needs projected during implementation of their drought response plans.

421 a. If Reclamation uses Project Water stored in the  
422 Investor Share of Expanded Reservoir to meet the enumerated CVP purposes above,  
423 Reclamation shall reimburse or credit the Investors for the applicable OM&R costs. Therefore,  
424 the quantity of Project Water used by Reclamation will be included in the calculation of that  
425 Year's Federal OM&R cost obligation allocated by DWR for the Expanded Reservoir and will  
426 be deducted from the Authority's share of OM&R cost obligation for the Year in which Project  
427 Water was used by Reclamation.

428 (f) Displacement of Project Water – In order to store Non-Project Water or  
429 Acquired Project Water in the Investor Share of Expanded Reservoir, the Investors, through the  
430 Water Coordinator and in coordination with Reclamation, may move Project Water out of the  
431 Investor Share of Expanded Reservoir in the following way in order of priority:

432 (1) Project Water moves from the Investor Share of Expanded  
433 Reservoir to the Historic Reservoir unless the Historic Reservoir is full;

434 (2) If the Historic Reservoir is full, then the Project Water would move  
435 to the Federal Share of Expanded Reservoir; and

436 (3) If the Federal Share of Expanded Reservoir is full, then the Project  
437 Water can be transferred or exchanged subject to applicable statutes, regulations, guidelines, and  
438 policies.

439 (4) If the Project Water cannot be transferred or exchanged, then  
440 Reclamation can make the Project Water available to CVP contractors per existing CVP Water  
441 Service/Repayment Contracts, and subject to applicable regulations, guidelines, and policies.  
442 Reclamation will retain full discretion as to the disposition of the Project Water.

443 (g) Losses – All water in the Investor Share of Expanded Reservoir will be  
444 subject to water loss criteria that is applied with proportionality based on reservoir losses caused  
445 by evaporation and seepage and charged to Reclamation as part of its joint operations with  
446 DWR.

447 (h) Points of Delivery

448 (1) Any Project Water, as defined by this Agreement, will be delivered  
449 at the point(s) of delivery as specified in the applicable Water Service/Repayment Contract.

450 (2) Any Acquired Project Water or Non-Project Water will be  
451 considered delivered to the Investor Share of Expanded Reservoir and will be accounted for  
452 consistent with all applicable State and Federal laws, contracts, and policy.

453 (i) Operation and Maintenance Costs of the San Luis Reservoir – As a result  
454 of the Expanded Reservoir, Reclamation may have an increased share of the cost of the operation  
455 and maintenance of the B.F. Sisk Dam and San Luis Reservoir. The Parties agree that costs will  
456 be paid consistent with existing laws, agreements, and policy, as may be amended or superseded.  
457 Further, the Authority agrees it will specifically pay for OM&R costs associated with the  
458 Investor Share of Expanded Reservoir; the details regarding such payment and costs will be  
459 defined in an OM&R Agreement, which will be an Exhibit to this Agreement.

460 (j) Coordination – Prior to the operation of the Expanded Reservoir,  
461 Reclamation and the Authority will develop a Coordination Agreement to coordinate and  
462 communicate and define roles and responsibilities prior to the storage of water in the Expanded  
463 Reservoir, which will be an Exhibit to this Agreement. The Coordination Agreement will,  
464 among other things:



- 465 (1) Define the frequency of coordination between the Parties.
- 466 (2) Establish a Reclamation approved accounting methodology and  
467 system of accounting for water in the Investor Share of Expanded Reservoir;
- 468 (3) Provide for a dispute resolution process.
- 469 (4) Provide for a Water Master/Manager. The Parties agree that a  
470 Water Master/Manager will be provided and paid for by the Authority who will coordinate with  
471 Reclamation regarding the management of any water moving into, stored in, or moving out of  
472 the Investor Share of Expanded Reservoir, who will account for the water in the Investor Share  
473 of Expanded Reservoir, and who will be responsible for the provisional data and coordinating  
474 with Reclamation on reconciliation at the end of the contract year and prior to initial allocations  
475 of the following Year.
- 476 (5) Describe the frequency and methods through which Reclamation  
477 will share forecasting and allocation information with the Water Master/Manager on behalf of  
478 the Authority and through which the Parties will acquire access to conveyance capacity.

479 **EXISTING CONTRACTS**

480 5. Nothing in this Agreement, in any way, alters, changes, or amends the Investors’  
481 existing Water Service/Repayment Contracts with the United States.

482 **DISPUTE RESOLUTION**

483 6. Should any dispute arise concerning any provisions of this Agreement, or the  
484 Parties’ or Investors’ rights and obligations thereunder, the United States and the Authority  
485 and/or Investors shall meet and confer in an attempt to resolve the dispute. Prior to the Authority  
486 or Investors commencing any legal action, or the Contracting Officer referring any matter to the

487 Department of Justice, the party shall provide to the other party thirty (30) days' written notice of  
488 the intent to take such action; *Provided, That* such notice shall not be required where a delay in  
489 commencing an action would prejudice the interests of the party that intends to file suit. During  
490 the thirty (30)-day notice period, the parties shall meet and confer in an attempt to resolve the  
491 dispute. Except as specifically provided, nothing herein is intended to waive or abridge any right  
492 or remedy that the Authority, the Investors, or the United States may have.

493 **WAIVER OF NON-COMPLIANCE WITH ANY PROVISION OF THIS AGREEMENT**

494 7. (a) The waiver by either Party to this Agreement as to any non-compliance  
495 with any provision of this Agreement shall not be construed as a waiver of any other non-  
496 compliance with any provision of this Agreement or as authority of the other Party to continue  
497 such non-compliance with any provision of this Agreement or to make, do, or perform, or not  
498 make, do, or perform, as the case may be, any act or thing which would constitute non-  
499 compliance with any provision of this Agreement.

500 (b) Nothing contained in this Agreement shall be construed as in any manner  
501 abridging, limiting, or depriving the United States or the Authority or Investors of any means of  
502 enforcing any remedy, either at law or in equity, for the breach of any of the provisions hereof  
503 which it would otherwise have.

504 **OPINIONS AND DETERMINATIONS**

505 8. (a) Where the terms of this Agreement provide for actions to be based upon  
506 the opinion or determination of either party to this Agreement, said terms shall not be construed  
507 as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or  
508 determinations. Both Parties, notwithstanding any other provisions of this Agreement, expressly

509 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,  
510 or unreasonable opinion or determination. Each opinion or determination by either Party shall be  
511 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall  
512 affect or alter the standard of judicial review applicable under Federal law to any opinion or  
513 determination implementing a specific provision of Federal law embodied in statute or  
514 regulation.

515 (b) The Contracting Officer shall have the right to make determinations  
516 necessary to administer this Agreement that are consistent with the provisions of this Agreement,  
517 the laws of the United States and of the State of California, and the rules and regulations  
518 promulgated by the Secretary. Such determinations shall be made in consultation with the  
519 Authority to the extent reasonably practicable.

520 **NOTICES**

521 9. Any notice, demand, or request authorized or required by this Agreement shall be  
522 deemed to have been given, on behalf of the Authority, when mailed, postage prepaid, or delivered  
523 to the Regional Director, California Great Basin Region, Bureau of Reclamation, 2800 Cottage  
524 Way, Sacramento, CA, 95825, and on behalf of the United States, when mailed, postage prepaid,  
525 or delivered to the San Luis & Delta-Mendota Water Authority, 842 6<sup>th</sup> Street, Los Banos, CA  
526 93635.

527

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

529 10. The expenditure or advance of any money or the performance of any obligation of  
530 the United States under this Agreement shall be contingent upon appropriation or allotment of  
531 funds. Absence of appropriation or allotment of funds shall not relieve the Authority from any  
532 obligations under this Agreement. No liability shall accrue to the United States in case funds are  
533 not appropriated or allotted.

534 **OFFICIALS NOT TO BENEFIT**

535 11. No Member of or Delegate to the Congress, Resident Commissioner, or official of  
536 the Authority shall benefit from this Agreement other than as a water user or landowner in the  
537 same manner as other water users or landowners.

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

539 12. The provisions of this Agreement shall apply to and bind the successors and  
540 assigns of the parties hereto, but no assignment or transfer of this Agreement or any right or  
541 interest therein by either party shall be valid until approved in writing by the other party.

542 **BOOKS, RECORDS, AND REPORTS**

543 13. The Authority shall establish and maintain accounts and other books and records  
544 pertaining to administration of the terms and conditions of this Agreement, including the  
545 Authority's financial transactions; water supply data; project operation, maintenance, and  
546 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop  
547 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting  
548 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on  
549 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and  
550 regulations, each party to this Agreement shall have the right during office hours to examine and  
551 make copies of the other party's books and records relating to matters covered by this  
552 Agreement.

553 **COMPLIANCE WITH FEDERAL RECLAMATION LAWS**

554 14. The parties agree that the delivery of irrigation water or use of Federal facilities  
555 pursuant to this Agreement is subject to Federal reclamation law, including but not limited to the  
556 Reclamation Reform Act of 1982 (43 U.S.C. 390aa, et seq.), as amended and supplemented, and  
557 the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation  
558 law.

559 **PROTECTION OF WATER AND AIR QUALITY**

560 15. (a) The Authority, without expense to the United States, will care for, operate,  
561 and maintain transferred works in a manner that preserves the quality of the water at the highest  
562 feasible level as determined by the Contracting Officer.

563 (b) The United States will care for, operate, and maintain reserved works in a  
564 manner that preserves the quality of the water at the highest feasible level as determined by the  
565 Contracting Officer. The United States does not warrant the quality of the water delivered to the  
566 Authority and is under no obligation to furnish or construct water treatment facilities to maintain  
567 or improve the quality of water delivered to the Authority.

568 (c) The Authority will comply with all applicable water and air pollution laws  
569 and regulations of the United States and the State of California; and will obtain all required  
570 permits or licenses from the appropriate Federal, State, or local authorities necessary for the  
571 delivery of water by the Authority; and will be responsible for compliance with all Federal,  
572 State, and local water quality standards applicable to surface and subsurface drainage and/or  
573 discharges generated through the use of Federal or Authority facilities or project water provided  
574 by the Authority within its Project Water Service Area.

575 (d) This article will not affect or alter any legal obligations of the Secretary to  
576 provide drainage or other discharge services.

577 **WATER CONSERVATION**

578 16. (a) Prior to the delivery of water provided from or conveyed through federally  
579 constructed or federally financed facilities pursuant to this Agreement, the Authority shall  
580 develop a water conservation plan, as required by subsection 210(b) of the Reclamation Reform  
581 Act of 1982 and 43 C.F.R. 427.1 (Water Conservation Rules and Regulations).

582  
583 (b) Water conservation plans developed by the Investors may be deemed to  
584 satisfy the requirement in subarticle 16(a) above.

585 **EQUAL EMPLOYMENT OPPORTUNITY**

586 17. The following language is required by Executive Order No. 11246 of September  
587 24, 1965, in all government contracts unless and until it is superseded or amended.

588 During the performance of this Agreement, the Authority agrees as follows:

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

599 (b) The Authority will, in all solicitations or advancements for employees  
600 placed by or on behalf of the Authority, state that all qualified applicants will receive  
601 consideration for employment without regard to race, color, religion, sex, sexual orientation,  
602 gender identity, or national origin.

603 (c) The Authority will not discharge or in any other manner discriminate  
604 against any employee or applicant for employment because such employee or applicant has  
605 inquired about, discussed, or disclosed the compensation of the employee or applicant or another  
606 employee or applicant. This provision shall not apply to instances in which an employee who has  
607 access to the compensation information of other employees or applicants as a part of such  
608 employee's essential job functions discloses the compensation of such other employees or  
609 applicants to individuals who do not otherwise have access to such information, unless such  
610 disclosure is in response to a formal complaint or charge, in furtherance of an investigation,

611 proceeding, hearing, or action, including an investigation conducted by the employer, or is  
612 consistent with the Authority's legal duty to furnish information.

613 (d) The Authority will send to each labor union or representative of workers  
614 with which he has a collective bargaining agreement or other contract or understanding, a notice,  
615 to be provided by the agency Contracting Officer, advising the labor union or workers'  
616 representative of the Authority's commitments under section 202 of Executive Order No. 11246  
617 of September 24, 1965, and shall post copies of the notice in conspicuous places available to  
618 employees and applicants for employment.

619 (e) The Authority will comply with all provisions of Executive Order No.  
620 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of  
621 Labor.

622 (f) The Authority will furnish all information and reports required by  
623 Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of  
624 the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and  
625 accounts by the Contracting Agency and the Secretary of Labor for purposes of investigation to  
626 ascertain compliance with such rules, regulations, and orders.

627 (g) In the event of the Authority's noncompliance with the nondiscrimination  
628 clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may  
629 be canceled, terminated or suspended in whole or in part and the Authority may be declared  
630 ineligible for further Government contracts in accordance with procedures authorized in  
631 Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and  
632 remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule,  
633 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

634 (h) The Authority will include the provisions of paragraphs (a) through (h) in  
635 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
636 Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September  
637 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The  
638 Authority will take such action with respect to any subcontract or purchase order as may be  
639 directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions  
640 for noncompliance: Provided, however, that in the event the Authority becomes involved in, or is  
641 threatened with, litigation with a subcontractor or vendor as a result of such direction, the  
642 Authority may request the United States to enter into such litigation to protect the interests of the  
643 United States.

644

### **COMPLIANCE WITH CIVIL RIGHTS**

645 18. (a) The Authority shall comply with Title VI of the Civil Rights Act of 1964  
646 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
647 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title  
648 III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L.  
649 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the

650 applicable implementing regulations and any guidelines imposed by the U.S. Department of the  
651 Interior and/or Bureau of Reclamation.

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

659 (c) The Authority makes this agreement in consideration of and for the  
660 purpose of obtaining any and all Federal grants, loans, contracts, property discounts, or other  
661 Federal financial assistance extended after the date hereof to the Authority by the Bureau of  
662 Reclamation, including installment payments after such date on account of arrangements for  
663 Federal financial assistance which were approved before such date. The Authority recognizes  
664 and agrees that such Federal assistance will be extended in reliance on the representations and  
665 agreements made in this article and that the United States reserves the right to seek judicial  
666 enforcement thereof.

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

#### 669 **CERTIFICATION OF NONSEGREGATED FACILITIES**

670 19. The Authority hereby certifies that it does not maintain or provide for its  
671 employees any segregated facilities at any of its establishments and that it does not permit its  
672 employees to perform their services at any location under its control where segregated facilities  
673 are maintained. It certifies further that it will not maintain or provide for its employees any  
674 segregated facilities at any of its establishments and that it will not permit its employees to  
675 perform their services at any location under its control where segregated facilities are  
676 maintained. The Authority agrees that a breach of this certification is a violation of the Equal  
677 Employment Opportunity clause in this Agreement. As used in this certification, the term  
678 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,  
679 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,  
680 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing  
681 facilities provided for employees which are segregated by explicit directive or are in fact  
682 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,  
683 disability, or otherwise. The Authority further agrees that (except where it has obtained identical  
684 certifications from proposed subcontractors for specific time periods) it will obtain identical  
685 certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000  
686 which are not exempt from the provisions of the Equal Employment Opportunity clause; that it  
687 will retain such certifications in its files; and that it will forward the following notice to such  
688 proposed subcontractors (except where the proposed subcontractors have submitted identical  
689 certifications for specific time periods):

690

691 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR  
692 CERTIFICATIONS OF NONSEGREGATED FACILITIES

693 A Certification of Nonsegregated Facilities must be submitted prior to the award of a subcontract  
694 exceeding \$10,000 which is not exempt from the provisions of the Equal Employment  
695 Opportunity clause. The certification may be submitted either for each subcontract or for all  
696 subcontracts during a period (i.e., quarterly, semiannually, or annually). Note: The penalty for  
697 making false statements in offers is prescribed in 18 U.S.C. § 1001.

698

**MEDIUM FOR TRANSMITTING PAYMENTS**

699 17. (a) All payments from the Authority to the United States under this  
700 Agreement shall be by the medium requested by the United States on or before the date payment  
701 is due. The required method of payment may include checks, wire transfers, or other types of  
702 payment specified by the United States.

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

707

**AGREEMENT DRAFTING CONSIDERATIONS**

708 20. This Agreement has been negotiated and reviewed by the parties hereto, each of  
709 whom is sophisticated in the matters to which this Agreement pertains. Articles    through    of  
710 this Agreement have been drafted, negotiated, and reviewed by the parties, and no one party shall  
711 be considered to have drafted the stated articles.

712

713

714

715



716

717           IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day  
718 and year first above written.

719

720

THE UNITED STATES OF AMERICA

721

By: \_\_\_\_\_

722

Regional Director

723

Interior Region 10: California-Great Basin

724

Bureau of Reclamation

725

726

San Luis & Delta-Mendota Water Authority

727 (SEAL)

728

By: \_\_\_\_\_

729

Chair, Board of Directors

730 Attest:

731

\_\_\_\_\_

732

Secretary

733