

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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- Exhibit A: Contributed Funds Agreement
- Exhibit B: Spend Plan
- Exhibit C: Repayment Contract
- Exhibit D: Coordination Agreement
- Exhibit E: OM&R Agreement
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OF THE FEDERALLY ADMINISTERED SAN LUIS RESERVOIR**

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, subject to Reclamation approval, from another CVP Water Service/Repayment  
97 Contractor, CVP Settlement Contractor, San Joaquin River Exchange Contractor, any other CVP  
98 contractor, or from Reclamation.

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

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

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

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

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

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

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

119 (i) “Federal Share of Historic Reservoir” shall mean the storage volume of  
120 966 TAF in the Historic Reservoir.

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

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

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

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

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

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

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

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

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

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

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

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

154 (v) "Substantial Completion" shall have the same meaning as defined in FAC  
155 01-05 as amended or supplemented.

156 (w) "Water Coordinator" shall mean the individual provided for in subarticle  
157 4(j)(4) of this Agreement.

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

160

**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

183 review shall compare the relative success which each Party has had in meeting its objectives,  
184 including, but not limited to, the Contributed Funds Agreement, an OM&R Agreement, a  
185 Repayment Contract, a Spend Plan, and a Coordination Agreement, which agreements will be  
186 exhibits to this Agreement. Exhibits to this Agreement, excluding Final Storage Benefits, will be  
187 mutually agreed to and signed by the Parties and will be incorporated into this Agreement. The  
188 Parties must successfully execute the Spend Plan and the Contributed Funds Agreement, and the  
189 Authority must deposit all funds identified as necessary to complete construction in escrow by  
190 December 31, 2027, or this Agreement expires on January 1, 2028. Exhibits to this agreement  
191 may require modification which may be accomplished without amendment to this Agreement.

192 Place holder for more discussion regarding commitment to spend plan  
193 (expiration)

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

198 **COST SHARE**

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

202 (a) Reclamation has the authority to share up to 50% of the costs of the  
203 Expansion Project; however, Reclamation and the Authority have agreed to an initial 70%

204 Authority Managed Share of Expanded Reservoir and a 30% Federal Share of Expanded  
205 Reservoir.

206 (1) Upon the determination of Substantial Completion of construction  
207 of the Expansion Project, Reclamation and the Authority will meet and confer within a  
208 reasonable time frame to complete a final accounting of Expansion Project benefits to determine  
209 and mutually agree upon final storage benefits of the Expansion Project and the allocation to  
210 Reclamation and the Authority. The final storage benefits attributable to the Parties will be  
211 documented in an exhibit to this Agreement. Reclamation, in coordination with the Authority,  
212 will assess the Expansion Project costs and make a determination of which Expansion Project  
213 costs are reimbursable and which Expansion Project costs are non-reimbursable.

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

216 (1) The Parties have reviewed the Expansion Project costs incurred by  
217 the Authority and Reclamation prior to the effective date of this Agreement. The Parties  
218 acknowledge and agree that the Authority has incurred costs totaling \$3,898,419.10 and  
219 Reclamation has incurred costs totaling \$375,952.00, which allowable amounts will be credited  
220 to each Party's cost share obligation under this Agreement.

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

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

231                   (4)     Cultural Resource Management Costs: Either Party may fund  
232 cultural studies, investigations, and mitigation needs consistent with this Agreement.  
233 Reclamation will be responsible for all necessary consultations with state offices, Indian tribes,  
234 and interested parties pursuant to Section 106 of the National Historic Preservation Act of 1966,  
235 as amended. Reclamation will be responsible for compliance and coordination with the Native  
236 American Graves Protection and Repatriation Act of 1990.

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

241                   (6)     Administrative Costs: Reclamation will reserve sufficient funding  
242 from Federal appropriations to cover its administrative and management costs associated with  
243 the Expansion Project. This amount will be considered part of the overall Federal contribution.  
244 Reclamation will provide an estimate of the administrative costs for this Expansion Project  
245 which will be reviewed with the Authority. The Authority will reserve sufficient funding to pay  
246 for its administrative costs for the non-Federal share of the Expansion Project. These costs will

247 be considered contributions to the non-Federal share of the Expansion Project and reported  
248 pursuant to subarticle 3(f) of this Agreement. Administrative costs include, unless otherwise  
249 defined by contracts: project management, construction management, accounting and  
250 administrative management, legal support and review, travel, general meetings related to the  
251 Expansion Project, contract/agreement technical meetings and negotiations, and other supportive  
252 services and activities necessary for the construction and operation of the Expansion Project  
253 prior to the determination of Substantial Completion.

254 (7) Design Costs: Either party may pay for part or all of various design  
255 costs for the Expansion Project. Reclamation will be responsible for design of the embankment  
256 of the San Luis Reservoir, but the Authority may contribute funds that will count towards the  
257 cost share. There may be the need for modifications during construction that may require further  
258 design work. These costs will be shared in accordance with subarticle 3(a)(1).

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

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

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

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

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

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

284 (g) Repayment: As currently formulated, Reclamation does not anticipate the  
285 need for a Repayment Contract for repayment of costs associated with the design and  
286 construction of the Expansion Project. Reclamation and the Authority will, at the quarterly  
287 check-ins described in subarticle (f) above, review the need for a Repayment Contract. If a  
288 Repayment Contract is necessary, Reclamation will seek delegated authority from the  
289 Commissioner to negotiate and execute said contract, which will be an exhibit to this Agreement.

290 The Parties will closely monitor the potential for reimbursable costs and the need for a  
291 Repayment Contract and conduct any necessary financial analysis, in accordance with PEC 11-  
292 01, prior to executing any such contract.

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

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

299 (h) The duties and obligations of the Parties under subarticles 3(a)(1), 3(b)(1),  
300 3(d), and 3(g) would expressly survive termination of this Agreement..

301 **MANAGEMENT OF EXPANDED RESERVOIR**

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

307 (a) The Parties will draft and finalize an OM&R Agreement for the Expansion  
308 Project prior to the first entry of any water subject to this Agreement into any CVP facilities. All  
309 future OM&R costs associated with the Expansion Project will be commensurate to each Party's  
310 final investment, unless otherwise agreed to in writing by the Parties pursuant to this Agreement.

311 (b) Nothing in this Agreement shall imply or convey any rights or process to  
312 the Authority or their assignees for rights or privileges to water or operations in the Federal  
313 Share of Expanded Reservoir or the Historic Reservoir and the Authority agrees that it shall not  
314 seek these rights outside of this Agreement.

315 (c) The Parties agree that Reclamation and DWR retain the sole discretion  
316 over the operations of the Historic Reservoir.-Operations of the Expanded Reservoir will be  
317 consistent with existing laws, agreements, and obligations and pursuant to the terms of this  
318 Agreement and in consultation with the Authority through the Water Coordinator.

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

323 (e) Authority Managed Share of Expanded Reservoir:

324 (1) The Parties agree that the Investors, through the Authority, possess  
325 the ability to partner with non-Investor parties regarding the use, marketing, and/or lease of  
326 capacity within the Authority Managed Share of Expanded Reservoir and/or the storage of water  
327 in the Authority Managed Share of Expanded Reservoir. The Authority shall indemnify the  
328 United States, its officers, employees, and agents of damage or claim of any nature whatsoever  
329 for which there is any legal responsibility derived from these third-party agreements.

330 (2) The Authority agrees to use the Authority Managed Share of  
331 Expanded Reservoir consistent with the terms of this Agreement. Non-Project Water, Acquired  
332 Project Water, and/or Project Water will be stored in the Authority Managed Share of Expanded

333 Reservoir and moved out of the Authority Managed Share of Expanded Reservoir subject to the  
334 terms of this Agreement. If an Investor has any water type available to move into the Authority  
335 Managed Share of Expanded Reservoir at the same time that Reclamation has Project Water  
336 available to it to fill the Expanded Reservoir, and conveyance capacity is deemed available, the  
337 Investor may determine which water type will be (or is) stored on its behalf in the Authority  
338 Managed Share of Expanded Reservoir. Water stored in the Authority Managed Share of  
339 Expanded Reservoir will not be subject to the San Luis Rescheduling Guidelines and will not be  
340 displaced, or “spill,” upon the filling of the Federal Share of Historic Reservoir.

341 (3) Non-Project Water

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

347 (ii) Storage of Non-Project Water in the Authority Managed  
348 Share of Expanded Reservoir will not require a Warren Act Contract. However, any water that is  
349 stored in the Authority Managed Share of Expanded Reservoir that may be moved into and  
350 accounted for in the Historic Reservoir will require a Warren Act Contract for storage in the  
351 Historic Reservoir.

352 (iii) For the purpose of this Agreement and consistent with the  
353 San Luis Rescheduling Guidelines, unless otherwise amended, San Joaquin River Restoration  
354 water recaptured consistent with permits issued by the State Water Resources Control Board, if

355 acquired by an Investor or a non-Investor party through agreement with an Investor, will be  
356 treated as having the same priority as Non-Project Water and may be storable in the Authority  
357 Managed Share of Expanded Reservoir if acquired by an Investor.

358 (iv) Reclamation will not use Non-Project Water for any  
359 purpose unless and until the Parties first mutually agree in writing to water or monetary  
360 compensation, subject to appropriations, or a combination thereof, prior to its use.

361 (v) M&I Shortage – Non-Project Water in the Authority  
362 Managed Share of Expanded Reservoir will not be subject to nor accounted against an Investor’s  
363 available water, as contemplated in the M&I Water Shortage Policy, as may be amended or  
364 superseded, to meet minimum public health and safety needs.

365 (4) Acquired Project Water

366 (i) Reclamation, at its discretion and in coordination with the  
367 Water Coordinator, will only use Acquired Project Water in the Authority Managed Share of  
368 Expanded Reservoir (1) to meet the unmet required deliveries for south-of-Delta San Joaquin  
369 River Exchange Contractors and Settlement Contractors, the unmet required CVPIA allocation  
370 for south-of-Delta Level 2 refuges, and the unmet required public health and safety needs as  
371 defined by the M&I Water Shortage Policy as may be amended or superseded; (2) after all  
372 available CVP supplies stored in the Federal Share of Historic Reservoir and Federal Share of  
373 Expanded Reservoir have been used; (3) concurrently with all other available CVP water  
374 supplies and (4) with agreed upon compensation for Reclamation’s use of Acquired Project  
375 Water per one of the following options, at the option of the Investor and as soon as practicable,  
376 as follows:

377 a. Subject to appropriations, Reclamation will  
378 compensate the total acquisition cost of the water prior to any losses or the current year market  
379 rate (replacement cost) with a demonstration of proof, whichever is greater, for the full quantity  
380 of Acquired Project Water taken; or

381 b. Reclamation will compensate in future water at a  
382 rate of 2:1 in replacement for the water needed by Reclamation. The quantity of water returned  
383 cannot exceed the amount of available storage in the Authority Managed Share of Expanded  
384 Reservoir. Any water returned will be considered Acquired Project Water in the Investor Share  
385 of the Expanded Reservoir upon its return; or

386 c. Subject to appropriations, Reclamation will  
387 compensate for half the total acquisition cost of the water prior to any losses or the current spot  
388 market rate (replacement cost) with a demonstration of proof, whichever is greater, for the full  
389 quantity of Acquired Project Water taken, and will replace the water needed by Reclamation at a  
390 rate of 1:1. Any water returned will be considered Acquired Project Water in the Investor Share  
391 of the Expanded Reservoir upon its return.

392 (ii) M&I Shortage – Acquired Project Water in the Authority  
393 Managed Share of Expanded Reservoir will be subject to the M&I Water Shortage Policy.

394 (5) Project Water

395 (i) Article 3(a) Water: Following the allocation of Water  
396 Made Available under Article 3(a) of an Investor’s Water Service/Repayment Contract, an  
397 Investor may direct the movement of allocated contract supply to the Authority Managed Share

398 of Expanded Reservoir, up to the maximum storage capacity of the Authority Managed Share of  
399 Expanded Reservoir.

400 (ii) Article 3(f) Water: Each Investor holds a Repayment  
401 Contract that provides a mechanism for Reclamation to make water available to each Investor in  
402 addition to the Investor’s CVP contract allocation in a given Year. This mechanism is most often  
403 described in Article 3(f) of the Investors’ Repayment Contracts, and so such water is referred to  
404 as “Article 3(f) water” available. For the purpose of this Agreement, the Contracting Officer will  
405 make Article 3(f) water available to Investors in addition to the Investors’ CVP contract  
406 allocation in every year that Article 3(f) water is available, as described below:

407 a. Following the filling of the Federal Share of  
408 Historic Reservoir, Reclamation will make a determination that Article 3(f) water is available to  
409 all south-of-Delta CVP Water Service/Repayment Contractors capable of taking Article 3(f)  
410 water.

411 b. Upon making Article 3(f) water available,  
412 Reclamation will fill the Authority Managed Share of Expanded Reservoir and the Federal Share  
413 of Expanded Reservoir on a proportionate basis in accordance with this Agreement.

414 1. Reclamation will fill the Expanded  
415 Reservoir until such a time that the Authority Managed Share of Expanded Reservoir is full or  
416 the Investor Share and the Federal Share of Expanded Reservoir are full.

417 2. Any Article 3(f) water used to fill a portion  
418 of the Authority Managed Share of Expanded Reservoir will be allocated to each Investor that  
419 has available capacity in the Expanded Reservoir.

420 3. Water made available under this subarticle  
421 4(e)(5)(ii) and stored in the Authority Managed Share of Expanded Reservoir can be scheduled  
422 for delivery at a later date at the discretion of the Investor, through the Water Coordinator.

423 a. (iii) Reclamation, at its discretion and in  
424 coordination with the Water Coordinator, will only use Project Water in the Authority Managed  
425 Share of Expanded Reservoir (1) to meet the unmet required deliveries for south-of-Delta San  
426 Joaquin River Exchange Contractors and Settlement Contractors in Shasta Critical Years, the  
427 unmet required CVPIA allocation for south-of-Delta Level 2 refuges, and the unmet required  
428 public health and safety needs as defined by the M&I Water Shortage Policy as may be amended  
429 or superseded; (2) after all available CVP supplies stored in the Federal Share of Historic  
430 Reservoir and Federal Share of Expanded Reservoir have been used; and (3) concurrently with  
431 all other available CVP water supplies;. Further, Reclamation agrees it will not use an Investor's  
432 M&I Project Water stored in the Authority Managed Share of Expanded Reservoir to meet these  
433 authorized CVP purposes in a Shasta Critical Year or in any Year in which a public health and  
434 safety allocation under the M&I Shortage Policy as may be amended or superseded is declared or  
435 anticipated to be declared. Under these conditions, the Investors will use this M&I Project Water  
436 to meet unmet public health and safety needs projected during implementation of their drought  
437 response plans.

438 b. If Reclamation uses Project Water stored in the  
439 Authority Managed Share of Expanded Reservoir to meet the enumerated CVP purposes above,  
440 Reclamation shall reimburse or credit the Authority for the applicable OM&R costs. Therefore,  
441 the quantity of Project Water used by Reclamation will be included in the calculation of that  
442 Year's Federal OM&R cost obligation allocated by DWR for the Expanded Reservoir and will

443 be deducted from the Authority's share of OM&R cost obligation for the Year in which Project  
444 Water was used by Reclamation.

445 (6) (i) Every Year, no later than the time of the initial  
446 Year-type determination, but as soon as practicable, Reclamation, in coordination with the Water  
447 Coordinator, will evaluate whether it anticipates a need to use Non-Project Water, Acquired  
448 Project Water, or Project Water stored in the Authority Managed Share of Expanded Reservoir  
449 for the purposes enumerated above in subarticles 4(e)(3)(iv), 4(e)(4)(i) and 4(e)(5)(iii). The  
450 results of this evaluation will be promptly communicated with the Authority. Reclamation, in  
451 coordination with the Water Coordinator, will update the evaluation throughout the Year,  
452 including information regarding any changes in anticipated need, the timing of such need, and  
453 the quantity of such need.

454 (ii) If Reclamation anticipates a need to use water stored in the  
455 Authority Managed Share of Expanded Reservoir, that anticipated need will not preclude the  
456 Authority from directing the movement of water out of the Authority Managed Share of  
457 Expanded Reservoir subject to the terms of this Agreement.

458

459 (f) Displacement of Project Water – In order to store Non-Project Water or  
460 Acquired Project Water in the Authority Managed Share of Expanded Reservoir, the Water  
461 Coordinator and in coordination with Reclamation, will if needed, move Project Water out of  
462 the Authority Managed Share of Expanded Reservoir. Project Water can be transferred,  
463 exchanged, or delivered subject to applicable statutes, regulations, guidelines, and policies. If the

464 Project Water cannot be timely transferred, exchanged, or delivered it will move in the following  
465 way and in the following order of priority:

466 (1) Project Water moves from the Authority Managed Share of  
467 Expanded Reservoir to the Historic Reservoir unless the Historic Reservoir is full;

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

470 (3) If the Project Water cannot be moved as described above, then  
471 Reclamation can make the Project Water available to CVP contractors per existing CVP Water  
472 Service/Repayment Contracts, and subject to applicable regulations, guidelines, and policies.  
473 Reclamation will retain full discretion as to the disposition of the Project Water.

474 (g) Losses – All water in the Authority Managed Share of Expanded  
475 Reservoir will be subject to water loss criteria that is applied based on reservoir losses caused by  
476 evaporation and seepage and charged to Reclamation as part of its joint operations with DWR,  
477 with the Authority and Reclamation sharing losses proportionate to the water then-stored in the  
478 Expanded Reservoir.

479 (h) Points of Delivery

480 (1) Any Project Water, as defined by this Agreement, will be delivered  
481 at the point(s) of delivery as specified in the applicable Water Service/Repayment Contract. If  
482 the Authority Managed Share of Expanded Reservoir is added as a point of delivery for any  
483 Investor consistent with the Investor's Water Service/Repayment Contract, then Project Water  
484 delivered to the Authority Managed Share of Expanded Reservoir will be considered delivered to

485 the Investor and will be accounted for consistent with all applicable State and Federal laws,  
486 contracts, and policy.

487 (2) Any Acquired Project Water or Non-Project Water stored in the  
488 Authority Managed Share of Expanded Reservoir will be considered stored until delivered to the  
489 Authority Managed Share of Expanded Reservoir and will be accounted for consistent with all  
490 applicable State and Federal laws, contracts, and policy.

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

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

503 (1) Define the frequency of coordination between the Parties.

504 (2) Establish a Reclamation approved accounting methodology and  
505 system of accounting for water in the Authority Managed Share of Expanded Reservoir;

506 (3) Provide for a dispute resolution process.

507 (4) Provide for a Water Coordinator. The Parties agree that a Water  
508 Coordinator will be provided and paid for by the Authority who will coordinate with  
509 Reclamation regarding the management of any water moving into, stored in, or moving out of  
510 the Authority Managed Share of Expanded Reservoir, who will account for the water in the  
511 Authority Managed Share of Expanded Reservoir, and who will be responsible for the  
512 provisional data and coordinating with Reclamation on reconciliation at the end of the contract  
513 year and prior to initial allocations of the following Year.

514 (5) Describe the coordination process referenced in subarticle 4(e)(6)  
515 above, including but not limited to the frequency and methods through which Reclamation will  
516 share forecasting and allocation information with the Water Coordinator on behalf of the  
517 Authority.

518 (6) Describe the methods through which the Parties will acquire  
519 access to conveyance capacity.

520 (k) The duties and obligations of the Parties under this Article 4 would  
521 expressly survive termination of this Agreement.

522 **EXISTING CONTRACTS**

523 5. Nothing in this Agreement, in any way, alters, changes, or amends existing Water  
524 Service/Repayment Contracts with the United States.

525 **DISPUTE RESOLUTION**

526 6. Should any dispute arise concerning any provisions of this Agreement, or the  
527 Parties' rights and obligations thereunder, the United States and the Authority shall meet and

528 confer in an attempt to resolve the dispute. Prior to the Authority commencing any legal action,  
529 or the Contracting Officer referring any matter to the Department of Justice, the party shall  
530 provide to the other party thirty (30) days' written notice of the intent to take such action;  
531 *Provided, That* such notice shall not be required where a delay in commencing an action would  
532 prejudice the interests of the party that intends to file suit. During the thirty (30)-day notice  
533 period, the parties shall meet and confer in an attempt to resolve the dispute. Except as  
534 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the  
535 Authority or the United States may have.

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

537 7. (a) The waiver by either Party to this Agreement as to any non-compliance  
538 with any provision of this Agreement shall not be construed as a waiver of any other non-  
539 compliance with any provision of this Agreement or as authority of the other Party to continue  
540 such non-compliance with any provision of this Agreement or to make, do, or perform, or not  
541 make, do, or perform, as the case may be, any act or thing which would constitute non-  
542 compliance with any provision of this Agreement.

543 (b) Nothing contained in this Agreement shall be construed as in any manner  
544 abridging, limiting, or depriving the United States, represented by the Contracting Officer, or the  
545 Authority of any means of enforcing any remedy, either at law or in equity, for the breach of any  
546 of the provisions hereof which it would otherwise have.

547 **OPINIONS AND DETERMINATIONS**

548 8. (a) Where the terms of this Agreement provide for actions to be based upon  
549 the opinion or determination of either party to this Agreement, said terms shall not be construed

550 as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or  
551 determinations. Both Parties, notwithstanding any other provisions of this Agreement, expressly  
552 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,  
553 or unreasonable opinion or determination. Each opinion or determination by either Party shall be  
554 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall  
555 affect or alter the standard of judicial review applicable under Federal law to any opinion or  
556 determination implementing a specific provision of Federal law embodied in statute or  
557 regulation.

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

563 **NOTICES**

564 9. Any notice, demand, or request authorized or required by this Agreement shall be  
565 deemed to have been given, on behalf of the Authority, when mailed, postage prepaid, or delivered  
566 to the Regional Director, California Great Basin Region, Bureau of Reclamation, 2800 Cottage  
567 Way, Sacramento, CA, 95825, and on behalf of the United States, when mailed, postage prepaid,  
568 or delivered to the San Luis & Delta-Mendota Water Authority, 842 6<sup>th</sup> Street, Los Banos, CA  
569 93635.

570

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

572 10. The expenditure or advance of any money or the performance of any obligation of  
573 the United States under this Agreement shall be contingent upon appropriation or allotment of  
574 funds. Absence of appropriation or allotment of funds shall not relieve the Authority from any  
575 obligations under this Agreement. No liability shall accrue to the United States in case funds are  
576 not appropriated or allotted.

577

**OFFICIALS NOT TO BENEFIT**

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

581

**ASSIGNMENT LIMITED – SUCCESSORS AND ASSIGNS OBLIGATED**

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

585

**BOOKS, RECORDS, AND REPORTS**

586 13. The Authority shall establish and maintain accounts and other books and records  
587 pertaining to administration of the terms and conditions of this Agreement, including the  
588 Authority’s financial transactions; water supply data; project operation, maintenance, and  
589 replacement logs; project land and rights-of-way use agreements; the water users’ land-use (crop  
590 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting  
591 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on  
592 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and  
593 regulations, each party to this Agreement shall have the right during office hours to examine and  
594 make copies of the other party’s books and records relating to matters covered by this  
595 Agreement.

596

**COMPLIANCE WITH FEDERAL RECLAMATION LAWS**

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

602

**EQUAL EMPLOYMENT OPPORTUNITY**

603 15. The following language is required by Executive Order No. 11246 of September  
604 24, 1965, in all government contracts unless and until it is superseded or amended.

605

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

606 (a) The Authority will not discriminate against any employee or applicant for  
607 employment because of race, color, religion, sex, sexual orientation, gender identity, or national  
608 origin. The Authority will take affirmative action to ensure that applicants are employed, and that  
609 employees are treated during employment, without regard to their race, color, religion, sex,  
610 sexual orientation, gender identity, or national origin. Such action shall include, but not be  
611 limited to the following: employment, upgrading, demotion, or transfer; recruitment or  
612 recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and

613 selection for training, including apprenticeship. The Authority agrees to post in conspicuous  
614 places, available to employees and applicants for employment, notices to be provided by the  
615 Contracting Officer setting forth the provisions of this nondiscrimination clause.

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

620 (c) The Authority will not discharge or in any other manner discriminate  
621 against any employee or applicant for employment because such employee or applicant has  
622 inquired about, discussed, or disclosed the compensation of the employee or applicant or another  
623 employee or applicant. This provision shall not apply to instances in which an employee who has  
624 access to the compensation information of other employees or applicants as a part of such  
625 employee's essential job functions discloses the compensation of such other employees or  
626 applicants to individuals who do not otherwise have access to such information, unless such  
627 disclosure is in response to a formal complaint or charge, in furtherance of an investigation,  
628 proceeding, hearing, or action, including an investigation conducted by the employer, or is  
629 consistent with the Authority's legal duty to furnish information.

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

636 (e) The Authority will comply with all provisions of Executive Order No.  
637 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of  
638 Labor.

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

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

651 (h) The Authority will include the provisions of paragraphs (a) through (h) in  
652 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the  
653 Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September  
654 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The  
655 Authority will take such action with respect to any subcontract or purchase order as may be  
656 directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions  
657 for noncompliance: Provided, however, that in the event the Authority becomes involved in, or is  
658 threatened with, litigation with a subcontractor or vendor as a result of such direction, the  
659 Authority may request the United States to enter into such litigation to protect the interests of the  
660 United States.

661

### **COMPLIANCE WITH CIVIL RIGHTS**

662 16. (a) The Authority shall comply with Title VI of the Civil Rights Act of 1964  
663 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as  
664 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title  
665 III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L.  
666 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the  
667 applicable implementing regulations and any guidelines imposed by the U.S. Department of the  
668 Interior and/or Bureau of Reclamation.

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

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

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

686

### **CERTIFICATION OF NONSEGREGATED FACILITIES**

687 17. The Authority hereby certifies that it does not maintain or provide for its  
688 employees any segregated facilities at any of its establishments and that it does not permit its  
689 employees to perform their services at any location under its control where segregated facilities

690 are maintained. It certifies further that it will not maintain or provide for its employees any  
 691 segregated facilities at any of its establishments and that it will not permit its employees to  
 692 perform their services at any location under its control where segregated facilities are  
 693 maintained. The Authority agrees that a breach of this certification is a violation of the Equal  
 694 Employment Opportunity clause in this Agreement. As used in this certification, the term  
 695 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,  
 696 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,  
 697 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing  
 698 facilities provided for employees which are segregated by explicit directive or are in fact  
 699 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,  
 700 disability, or otherwise. The Authority further agrees that (except where it has obtained identical  
 701 certifications from proposed subcontractors for specific time periods) it will obtain identical  
 702 certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000  
 703 which are not exempt from the provisions of the Equal Employment Opportunity clause; that it  
 704 will retain such certifications in its files; and that it will forward the following notice to such  
 705 proposed subcontractors (except where the proposed subcontractors have submitted identical  
 706 certifications for specific time periods):

707

708 **NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR**  
 709 **CERTIFICATIONS OF NONSEGREGATED FACILITIES**

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

715

**MEDIUM FOR TRANSMITTING PAYMENTS**

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

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

724

**AGREEMENT DRAFTING CONSIDERATIONS**

725 19. This Agreement has been negotiated and reviewed by the parties hereto, each of  
 726 whom is sophisticated in the matters to which this Agreement pertains. Articles    through    of

727 this Agreement have been drafted, negotiated, and reviewed by the parties, and no one party shall  
728 be considered to have drafted the stated articles.

729

730

731

732

733

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

736

737

THE UNITED STATES OF AMERICA

738

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

739

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

740

741

742

743

San Luis & Delta-Mendota Water Authority

744 (SEAL)

745

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

746

Chair, Board of Directors

747 Attest:

748

749

750

\_\_\_\_\_  
Secretary