

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 [1st] 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 [2nd] 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 [3rd] 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 [4th] 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 [5th] 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 [6th] 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 [7th] 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 [8th] 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 [9th] 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 [10th] 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 [11th] 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 [12th] 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 [13th] 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 [14th] 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 [15th] 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, in addition to any transfer or exchange backstopped by Project
99 Water shall be considered Acquired Project Water.

100 (b) “Authority Managed Share of Expanded Reservoir” shall mean the storage
101 volume of the Expanded Reservoir commensurate with the Investors’ level of investment in the
102 Expansion Project.

103 (c) “Calendar Year” shall mean the period January 1 through December 31,
104 both dates inclusive.

105 (d) “Contracting Officer” shall mean the Secretary of the Interior's duly
106 authorized representative acting pursuant to this Agreement or applicable Federal Reclamation
107 law or regulation.

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

111 (f) “Coordination Agreement” shall mean the agreement provided for in
112 subarticle 4(j) of this Agreement.

113 (g) “Expanded Reservoir” shall mean the combined volume of storage in the
114 Federal Share and the Investor Share of the expanded San Luis Reservoir resulting from the
115 Expansion Project.

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

120 (i) “Federal Share of Expanded Reservoir” shall mean the storage volume of
121 the Expanded Reservoir commensurate with the Federal level of investment in the Expansion
122 Project.

123 (j) “Federal Share of Historic Reservoir” shall mean the storage volume of
124 966 TAF in the Historic Reservoir.

125 (k) “Historic Reservoir” shall mean the total storage volume of 2.028 Million
126 Acre-Feet (“MAF”) in San Luis Reservoir.

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

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

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

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

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

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

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

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

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

153 (u) "Shasta Critical Year/Critical Year" shall be consistent with the
154 definitions in Contracts No. 11r-1144 and 14-06-200-855A-R-1.

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

157 (v) "Substantial Completion" shall have the same meaning as defined in FAC
158 01-05 as amended or supplemented.

159 (w) "Water Coordinator" shall mean the individual provided for in subarticle
160 4(j)(4) of this Agreement.

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

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TERM OF AGREEMENT

2. (a) This Agreement is effective on the date hereinabove written and will remain in full force during the duration of the useful life of the Project or until terminated.

(b) The Contracting Officer may terminate this Agreement at any time before the expiration of its term whenever the Contracting Officer determines that the Authority is in substantial violation of the Agreement as provided in this subarticle 2(b) or otherwise in violation of Federal law or Reclamation Policy; provided, that prior to the effective date of any such termination, the Contracting Officer shall first notify the Authority in writing of, the specific purported deficiencies of the Authority in carrying out the terms and conditions of this Agreement. It is the intent of the Parties that disputes be resolved pursuant to this subarticle 2(b) as expeditiously as is reasonably possible without the necessity of other relief at law or in equity. If after the designated representative of the Authority has met with the Contracting Officer or his or her designated representative and attempt in good faith and with the use of best efforts to resolve any dispute arising from the purported deficiency an agreement is not reached, the Contracting Officer may issue a notice of proposed termination, which includes the specific deficiencies of the Authority’s performance under this Agreement. The Authority shall have at least one hundred and twenty (120) days from receipt of the written notice of proposed termination to correct all deficiencies referred to in said written notice. Any termination pursuant to this Article shall be subject to the rights and obligations of the Parties as more specifically set forth in this Agreement.

(c) The United States and the Authority jointly shall review this Agreement, which review shall be performed at least every five (5) years. A more frequent review will occur if determined to be appropriate by the Contracting Officer, or if requested by the Authority. The

186 review shall compare the relative success which each Party has had in meeting its objectives,
187 including, but not limited to, the Contributed Funds Agreement, an OM&R Agreement, a
188 Repayment Contract, a Spend Plan, and a Coordination Agreement, which agreements will be
189 exhibits to this Agreement. Exhibits to this Agreement, excluding Final Storage Benefits, will be
190 mutually agreed to and signed by the Parties and will be incorporated into this Agreement. As a
191 precondition to the granting of any federal benefits or promises to this Agreement, the Parties
192 must successfully execute the Spend Plan and the Contributed Funds Agreement, and the
193 Authority must deposit all funds identified as necessary to complete construction in accordance
194 with the Spend Plan that will, be executed no later than one hundred and twenty (120) days after
195 the execution of this Agreement.. Exhibits to this Agreement may require modification which
196 may be accomplished without amendment to this Agreement.

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

201 **COST SHARE**

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

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

207 Authority Managed Share of Expanded Reservoir and a 30% Federal Share of Expanded
208 Reservoir.

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

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

219 (1) The Parties have reviewed the Expansion Project costs incurred by
220 the Authority and Reclamation prior to the effective date of this Agreement. The Parties
221 acknowledge and agree that the Authority has incurred costs totaling \$3,898,419.10 _____
222 and Reclamation has incurred costs totaling \$394,122.00 _____, which allowable amounts will
223 be credited to each Party's cost share obligation under this Agreement.

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

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

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

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

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

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

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

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

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

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

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

281 (e) As a precondition to the effectiveness of this agreement, within one
282 hundred and twenty (120) days of the execution of this Agreement, if not before, Reclamation
283 and the Authority will develop and faithfully execute a Spend Plan containing mutually
284 agreeable terms for the Authority to commit funding required under the WIIN Act and to track
285 costs and account for funds expended. The Spend Plan will be an exhibit to this Agreement.

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

289 (g) Repayment: As currently formulated, Reclamation does not anticipate the
290 need for a Repayment Contract for repayment of costs associated with the design and
291 construction of the Expansion Project. Reclamation and the Authority will, at the quarterly
292 check-ins described in subarticle (f) above, review the need for a Repayment Contract. If a

293 Repayment Contract is necessary, Reclamation will seek delegated authority from the
294 Commissioner to negotiate and execute said contract, which will be an exhibit to this Agreement.
295 The Parties will closely monitor the potential for reimbursable costs and the need for a
296 Repayment Contract and conduct any necessary financial analysis, in accordance with PEC 11-
297 01, prior to executing any such contract.

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

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

304 (h) The duties and obligations of the Parties under subarticles 3(a)(1), 3(b)(1),
305 3(d), and 3(g) would expressly survive termination of this Agreement.

306 **MANAGEMENT OF EXPANDED RESERVOIR**

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

312 (a) The Parties will draft and finalize an OM&R Agreement for the Expansion
313 Project prior to the first entry of any water subject to this Agreement into any CVP facilities. All

314 future OM&R costs associated with the Expansion Project will be commensurate to each Party's
315 final investment, unless otherwise agreed to in writing by the Parties pursuant to this Agreement.

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

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

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

328 (e) Authority Managed Share of Expanded Reservoir:

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

335 (2) The Authority agrees to use the Authority Managed Share of
336 Expanded Reservoir consistent with the terms of this Agreement. Non-Project Water, Acquired
337 Project Water, and/or Project Water will be stored in or moved out of the Authority Managed
338 Share of Expanded Reservoir a subject to the terms of this Agreement. If an Investor has any
339 water type available to store in the Authority Managed Share of Expanded Reservoir at the same
340 time that Reclamation has Project Water available to it to fill the Expanded Reservoir, and
341 conveyance capacity is deemed available, the Investor may determine which water type will be
342 (or is) stored on its behalf in the Authority Managed Share of Expanded Reservoir. Water stored
343 in the Authority Managed Share of Expanded Reservoir will not be subject to the San Luis
344 Rescheduling Guidelines and will not be displaced, or “spill,” upon the filling of the Federal
345 Share of Historic Reservoir.

346 (3) Non-Project Water

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

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

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

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

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

370 (4) Acquired Project Water

371 (i) Reclamation, at its discretion and in coordination with the
372 Water Coordinator, will use Acquired Project Water in the Authority Managed Share of
373 Expanded Reservoir (1) to meet the unmet required deliveries for south-of-Delta San Joaquin
374 River Exchange Contractors and Settlement Contractors, the unmet required CVPIA allocation
375 for south-of-Delta Level 2 refuges, and the unmet required public health and safety needs as
376 defined by the M&I Water Shortage Policy as may be amended or superseded; (2) after all
377 available CVP supplies stored in the Federal Share of Historic Reservoir and Federal Share of
378 Expanded Reservoir have been used or projected to be used; (3) in coordination with all other

379 available CVP water supplies consistent with applicable law and Reclamation policy; (4) upon
380 Shasta Critical Year/Critical Year determination; and (5) with agreed upon compensation for
381 Reclamation's use of Acquired Project Water per one of the following options,:

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

386 (b) Reclamation will compensate in future water at a
387 rate of 2:1 in replacement for the water needed by Reclamation. The quantity of water returned
388 cannot exceed the amount of available storage in the Authority Managed Share of Expanded
389 Reservoir. Any water returned will be considered Acquired Project Water in the Investor Share
390 of the Expanded Reservoir upon its return; or

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

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

399 (5) Project Water

400 (i) Article 3(a) Water: Following the CVP contract allocation
401 of Water Made Available under Article 3(a) of an Investor’s Water Service/Repayment Contract,
402 the Water Coordinator may inform Reclamation as to the amount of water to be accounted for
403 under this subarticle, up to the maximum storage capacity of the Authority Managed Share of
404 Expanded Reservoir.

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

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

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

419 (1) Reclamation will fill the Expanded
420 Reservoir until such a time that the Authority Managed Share of Expanded Reservoir is full or
421 the Authority Managed Share and the Federal Share of Expanded Reservoir are full.

422 (2) Any Article 3(f) water used to fill a portion
423 of the Authority Managed Share of Expanded Reservoir will be allocated by the Water
424 Coordinator within the Authority Managed Share of the Expanded Reservoir.

425 (3) Water made available under this subarticle
426 4(e)(5)(ii) and stored in the Authority Managed Share of Expanded Reservoir can be scheduled
427 for delivery at a later date in coordination with the Water Coordinator.

428 (c) Reclamation, at its discretion and in coordination
429 with the Water Coordinator, will only use Project Water in the Authority Managed Share of
430 Expanded Reservoir (1) to meet the unmet required deliveries for south-of-Delta San Joaquin
431 River Exchange Contractors and Settlement Contractors, the unmet required CVPIA allocation
432 for south-of-Delta Level 2 refuges, and the unmet required public health and safety needs as
433 defined by the M&I Water Shortage Policy as may be amended or superseded; (2) after all
434 available CVP supplies stored in the Federal Share of Historic Reservoir and Federal Share of
435 Expanded Reservoir have been used; and (3) in coordination with all other available CVP water
436 supplies, to include the South of Delta Drought Plan..

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

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

453 (ii) If Reclamation anticipates a need for any water stored in
454 the Authority Managed Share of Expanded Reservoir, on or before February 15th of each Year
455 the Authority in coordination with the Water Coordinator shall provide a schedule to
456 Reclamation for the delivery of water in accordance with the noticing and scheduling provisions
457 located in the applicable Investor Water Service/Repayment Contract that shows the volumes of
458 water to be delivered. Upon approval of the schedule by the Contracting Officer, the United
459 States shall deliver the water to the Contractor in accordance with the initial schedule submitted
460 by the Contractor, or any written revision(s) deemed satisfactory to the Contracting Officer,
461 thereto submitted within a reasonable time prior to the date(s) on which the requested change(s)
462 is/are to be implemented.

463 (f) Displacement of Project Water – In order to store Non-Project Water or
464 Acquired Project Water in the Authority Managed Share of Expanded Reservoir, the Water
465 Coordinator, in coordination with Reclamation, will if needed, move Project Water out of the
466 Authority Managed Share of Expanded Reservoir. Project Water can be transferred, exchanged,

467 or delivered subject to applicable statutes, regulations, guidelines, and policies. If the Project
468 Water cannot be timely transferred, exchanged, or delivered, it will move in the following way
469 and in the following order of priority:

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

472 (2) If the Historic Reservoir is full, then the Project Water moves to
473 the Federal Share of Expanded Reservoir; and

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

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

483 (h) Points of Delivery

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

486 (2) Any Acquired Project Water or Non-Project Water stored in the
487 Authority Managed Share of Expanded Reservoir will be considered stored in the Authority

488 Managed Share of Expanded Reservoir until delivered and will be accounted for consistent with
489 all applicable State and Federal laws, contracts, and policy.

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

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

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

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

505 (3) Provide for a dispute resolution process.

506 (4) Provide for a Water Coordinator. The Parties agree that a Water
507 Coordinator will be provided and paid for by the Authority who will coordinate with
508 Reclamation regarding the management of any water moving into, stored in, or moving out of

509 the Authority Managed Share of Expanded Reservoir, who will account for the water in the
510 Authority Managed Share of Expanded Reservoir, and who will be responsible for the
511 provisional data and coordinating with Reclamation on reconciliation at the end of the contract
512 year and prior to initial allocations of the following Year.

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

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

519 **PUBLIC HEALTH AND SAFETY**

520 5. Notwithstanding anything in this Agreement, public health and safety is
521 Reclamation's highest priority. In the event of a public health and safety emergency,
522 Reclamation reserves the right to use all water in San Luis Reservoir and any of its other Project
523 facilities, to meet the basic needs of human health and safety. Any water used in the event of a
524 publicly declared emergency, as declared by the appropriate authority, Reclamation and the
525 Authority will coordinate and cooperate, in accordance with Article 6, following the end of the
526 emergency to determine applicable remedy, if any.

527 **COORDINATION AND COOPERATION**

528 6. (a) In order to further the goals and objectives of this Agreement, Reclamation and
529 the Authority shall communicate, coordinate, and cooperate with each other. The
530 communication, coordination, and cooperation provided for hereunder shall extend to all

531 provisions of this Agreement. Each Party shall retain exclusive decision-making authority for all
532 actions, opinions, and determinations to be made by the respective Party.

533 (b) Nothing in this Article shall be construed to limit or constrain
534 Reclamation's ability to communicate, coordinate, and cooperate with the Authority or to make
535 decisions in a timely fashion as needed to protect health, safety, or the physical integrity of
536 structures or facilities.

537 **EXISTING CONTRACTS**

538 7. Nothing in this Agreement, in any way, alters, changes, or amends existing Water
539 Service/Repayment Contracts with the United States.

540 **DISPUTE RESOLUTION**

541 8. Should any dispute arise concerning any provisions of this Agreement, or the
542 Parties' rights and obligations thereunder, the United States and the Authority shall meet and
543 confer in an attempt to resolve the dispute. Prior to the Authority commencing any legal action,
544 or the Contracting Officer referring any matter to the Department of Justice, the party shall
545 provide to the other party thirty (30) days' written notice of the intent to take such action;
546 *Provided, That* such notice shall not be required where a delay in commencing an action would
547 prejudice the interests of the party that intends to file suit. During the thirty (30)-day notice
548 period, the parties shall meet and confer in an attempt to resolve the dispute. Except as
549 specifically provided, nothing herein is intended to waive or abridge any right or remedy that the

550 Authority or the United States may have.

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

552 9. (a) The waiver by either Party to this Agreement as to any non-compliance
553 with any provision of this Agreement shall not be construed as a waiver of any other non-
554 compliance with any provision of this Agreement or as authority of the other Party to continue
555 such non-compliance with any provision of this Agreement or to make, do, or perform, or not
556 make, do, or perform, as the case may be, any act or thing which would constitute non-
557 compliance with any provision of this Agreement.

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

562 **OPINIONS AND DETERMINATIONS**

563 10. (a) Where the terms of this Agreement provide for actions to be based upon
564 the opinion or determination of either party to this Agreement, said terms shall not be construed
565 as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
566 determinations. Both Parties, notwithstanding any other provisions of this Agreement, expressly
567 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,
568 or unreasonable opinion or determination. Each opinion or determination by either Party shall be
569 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall
570 affect or alter the standard of judicial review applicable under Federal law to any opinion or

571 determination implementing a specific provision of Federal law embodied in statute or
572 regulation.

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

578 **NOTICES**

579 11. Any notice, demand, or request authorized or required by this Agreement shall be
580 deemed to have been given, on behalf of the Authority, when mailed, postage prepaid, or delivered
581 to the Regional Director, California Great Basin Region, Bureau of Reclamation, 2800 Cottage
582 Way, Sacramento, CA, 95825, and on behalf of the United States, when mailed, postage prepaid,
583 or delivered to the San Luis & Delta-Mendota Water Authority, 842 6th Street, Los Banos, CA
584 93635.
585

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

587 12. The expenditure or advance of any money or the performance of any obligation of
588 the United States under this Agreement shall be contingent upon appropriation or allotment of
589 funds. Absence of appropriation or allotment of funds shall not relieve the Authority from any
590 obligations under this Agreement. No liability shall accrue to the United States in case funds are
591 not appropriated or allotted.

592 **OFFICIALS NOT TO BENEFIT**

593 13. No Member of or Delegate to the Congress, Resident Commissioner, or official of
594 the Authority shall benefit from this Agreement other than as a water user or landowner in the
595 same manner as other water users or landowners.

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

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

600

BOOKS, RECORDS, AND REPORTS

601 15. The Authority shall establish and maintain accounts and other books and records
602 pertaining to administration of the terms and conditions of this Agreement, including the
603 Authority's financial transactions; water supply data; project operation, maintenance, and
604 replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop
605 census), land-ownership, land-leasing, and water-use data; and other matters that the Contracting
606 Officer may require. Reports shall be furnished to the Contracting Officer in such form and on
607 such date or dates as the Contracting Officer may require. Subject to applicable Federal laws and
608 regulations, each party to this Agreement shall have the right during office hours to examine and
609 make copies of the other party's books and records relating to matters covered by this
610 Agreement.

611

COMPLIANCE WITH FEDERAL RECLAMATION LAWS

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

617

EQUAL EMPLOYMENT OPPORTUNITY

618 17. The following language is required by Executive Order No. 11246 of September
619 24, 1965, in all government contracts unless and until it is superseded or amended.

620

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

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

631

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

635

636 (c) The Authority will not discharge or in any other manner discriminate
against any employee or applicant for employment because such employee or applicant has

637 inquired about, discussed, or disclosed the compensation of the employee or applicant or another
638 employee or applicant. This provision shall not apply to instances in which an employee who has
639 access to the compensation information of other employees or applicants as a part of such
640 employee's essential job functions discloses the compensation of such other employees or
641 applicants to individuals who do not otherwise have access to such information, unless such
642 disclosure is in response to a formal complaint or charge, in furtherance of an investigation,
643 proceeding, hearing, or action, including an investigation conducted by the employer, or is
644 consistent with the Authority's legal duty to furnish information.

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

651 (e) The Authority will comply with all provisions of Executive Order No.
652 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of
653 Labor.

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

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

666 (h) The Authority will include the provisions of paragraphs (a) through (h) in
667 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
668 Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September
669 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The
670 Authority will take such action with respect to any subcontract or purchase order as may be
671 directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions
672 for noncompliance: Provided, however, that in the event the Authority becomes involved in, or is
673 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
674 Authority may request the United States to enter into such litigation to protect the interests of the
675 United States.

676

COMPLIANCE WITH CIVIL RIGHTS

677 17. (a) The Authority shall comply with Title VI of the Civil Rights Act of 1964
678 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as
679 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title
680 III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L.
681 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the
682 applicable implementing regulations and any guidelines imposed by the U.S. Department of the
683 Interior and/or Bureau of Reclamation.

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

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

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

701

CERTIFICATION OF NONSEGREGATED FACILITIES

702 18. The Authority hereby certifies that it does not maintain or provide for its
703 employees any segregated facilities at any of its establishments and that it does not permit its
704 employees to perform their services at any location under its control where segregated facilities
705 are maintained. It certifies further that it will not maintain or provide for its employees any
706 segregated facilities at any of its establishments and that it will not permit its employees to
707 perform their services at any location under its control where segregated facilities are
708 maintained. The Authority agrees that a breach of this certification is a violation of the Equal
709 Employment Opportunity clause in this Agreement. As used in this certification, the term
710 "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,
711 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,
712 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing
713 facilities provided for employees which are segregated by explicit directive or are in fact
714 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,
715 disability, or otherwise. The Authority further agrees that (except where it has obtained identical

716 certifications from proposed subcontractors for specific time periods) it will obtain identical
717 certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000
718 which are not exempt from the provisions of the Equal Employment Opportunity clause; that it
719 will retain such certifications in its files; and that it will forward the following notice to such
720 proposed subcontractors (except where the proposed subcontractors have submitted identical
721 certifications for specific time periods):

722

723 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
724 CERTIFICATIONS OF NONSEGREGATED FACILITIES

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

730 **MEDIUM FOR TRANSMITTING PAYMENTS**

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

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

739 **AGREEMENT DRAFTING CONSIDERATIONS**

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

744

745

746

747

748

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

751

752

THE UNITED STATES OF AMERICA

753

By: _____

754

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

755

756

757

758

San Luis & Delta-Mendota Water Authority

759 (SEAL)

760

By: _____

761

Chair, Board of Directors

762 Attest:

763

764

765

Secretary