

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 ADMINISTERED 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, while the execution of this Agreement is made for due
69 consideration arising from the promises and benefits herein, the Authority’s consent to be bound
70 by all of its terms shall not be construed as the Authority’s agreement with Reclamation’s
71 interpretation of State water rights laws or its application; and

72 [13th] WHEREAS, the Authority certified, and Reclamation signed, a Record of
73 Decision on October 20, 2023, for the Environmental Impact Statement/Report entitled B.F. Sisk
74 Dam Raise and Reservoir Expansion Project, selecting the Dam Raise Alternative; and

75 [14th] WHEREAS, consistent with WIIN §4007(b)(2), Reclamation and the Authority
76 agree to enter into this Agreement for up to 50% Federal share of the costs of the Expansion
77 Project including, but not limited to, planning, design, and construction, and as further defined in
78 this Agreement; and

79 [15th] WHEREAS, consistent with WIIN §4007(e), Reclamation representing the United
80 States, and the Authority, through the B.F. Sisk Dam Raise and Reservoir Expansion Project

81 Activity Agreement, as may be amended or supplemented, representing Investors who will
82 collectively share in the costs and benefits of the Expansion Project, desire to use the Expansion
83 Project in a such a manner as may be mutually agreeable to the Parties hereto; and

84 [16th] WHEREAS, other agreements and/or contracts necessary for commencing design,
85 construction, and/or operation of the Expanded Reservoir may be necessary and may be
86 incorporated into this Agreement, and which may include, but are not limited to, a contributed
87 funds agreement providing for the contribution of funds from Federal cost share partners
88 (§4007(b)(3)(b)) and §4011(e)(2)), an OM&R Agreement, a Repayment Contract providing for
89 repayment of reimbursable obligations (§4007(b)(3)(c) and 4011(e)(2)), as appropriate, a Spend
90 Plan; and a Coordination Agreement; and which may require further delegation of authority from
91 the Commissioner of Reclamation to negotiate and make a part of this Agreement; and

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

96 **DEFINITIONS**

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

99 (a) “Acquired Project Water” shall mean Project Water transferred, assigned,
100 or exchanged by an Investor, from another CVP Water Service/Repayment Contractor (including
101 another Investor), CVP Settlement Contractor, San Joaquin River Exchange Contractor, any
102 other CVP contractor, or from Reclamation, in addition to any transfer or exchange backstopped
103 by Project Water.

104 (b) “Authority-Managed Share of Expanded Reservoir” shall mean the storage
105 volume of the Expanded Reservoir commensurate with the Investors’ level of investment in the
106 Expansion Project.

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

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

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

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

117 (g) “Expanded Reservoir” shall mean the combined volume of storage in the
118 Federal Share and the Authority-Managed Share of the expanded San Luis Reservoir resulting
119 from the Expansion Project.

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

124 (i) “Federal Share of Expanded Reservoir” shall mean the storage volume of
125 the Expanded Reservoir commensurate with the Federal level of investment in the Expansion
126 Project.

127 (j) “Federal Share of Historic Reservoir” shall mean the storage volume of
128 966 TAF in the Historic Reservoir.

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

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

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

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

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

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

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

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

151 (s) "San Luis Reservoir" shall mean the Historic Reservoir and the Expanded
152 Reservoir.

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

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

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

161 (v) "Substantial Completion" shall have the same meaning as defined in FAC
162 01-05 as amended or supplemented.

163 (w) "Water Coordinator" shall mean the individual provided for in subarticle
164 4(j)(4) of this Agreement.

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

167 **TERM OF AGREEMENT**

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

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

187 (c) The United States and the Authority jointly shall review this Agreement,
188 which review shall be performed at least every five (5) years. A more frequent review will occur
189 if determined to be appropriate by the Contracting Officer, or if requested by the Authority. The
190 review shall compare the relative success which each Party has had in meeting its objectives,
191 including, but not limited to, the Contributed Funds Agreement, an OM&R Agreement, a
192 Repayment Contract, a Spend Plan, and a Coordination Agreement, which agreements will be
193 exhibits to this Agreement. Exhibits to this Agreement, excluding Final Storage Benefits, will be
194 mutually agreed to and signed by the Parties and will be incorporated into this Agreement. As a
195 precondition to the granting of any benefits or promises in this Agreement, the Parties must
196 successfully execute the Spend Plan and the Contributed Funds Agreement, and the Authority
197 must deposit all funds identified as necessary in the Spend Plan, which shall be executed no later
198 than one hundred and twenty (120) days after the execution of this Agreement. Exhibits to this
199 Agreement may require modification which may be accomplished without amendment to this
200 Agreement.

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

205 **COST SHARE**

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

209 (a) Reclamation has the authority to share up to 50% of the costs of the
210 Expansion Project; however, Reclamation and the Authority have agreed to an initial 70%
211 Authority-Managed Share of Expanded Reservoir and a 30% Federal Share of Expanded
212 Reservoir.

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

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

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

228 (2) Planning Costs: In an effort to reach a finding that the Expansion
229 Project is feasible, certain planning level investigations were necessary and may continue to be

230 necessary prior to commencement of construction. Such planning investigations will be
231 consistent with Reclamation's Directives and Standards in accordance with CMP 09-02.

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

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

244 (5) Permitting Costs: Additional permitting actions prior to
245 construction of the Expansion Project and prior to declaring the Expansion Project "Substantially
246 Complete" may be required. The Parties will jointly determine, as appropriate, the appropriate
247 Party to obtain any necessary permit(s), and the appropriate cost share for the permitting actions.

248 (6) Administrative Costs: Reclamation will reserve sufficient funding
249 from Federal appropriations to cover its administrative and management costs associated with
250 the Expansion Project. This amount will be considered part of the overall Federal contribution.
251 Reclamation will provide an estimate of the administrative costs for this Expansion Project

252 which will be reviewed with the Authority. The Authority will reserve sufficient funding to pay
253 for its administrative costs for the non-Federal share of the Expansion Project. These costs will
254 be considered contributions to the non-Federal share of the Expansion Project and reported
255 pursuant to subarticle 3(f) of this Agreement. Administrative costs include, unless otherwise
256 defined by contracts: project management, construction management, accounting and
257 administrative management, legal support and review, travel, general meetings related to the
258 Expansion Project, contract/agreement technical meetings and negotiations, and other supportive
259 services and activities necessary for the construction and operation of the Expansion Project
260 prior to the determination of Substantial Completion.

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

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

270 (9) Other Design and Construction Costs: Either party may pay for
271 part, or all of the remaining non-embankment design and construction costs of associated
272 facilities affected or involved with the Expansion Project including, but not limited to, recreation

273 facilities, power improvements to existing facilities, improvements to pumps, transportation, and
274 other various components of the Expansion Project.

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

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

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

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

293 (g) Repayment: As currently formulated, Reclamation does not anticipate the
294 need for a Repayment Contract for repayment of costs associated with the design and

295 construction of the Expansion Project. Reclamation and the Authority will, at the quarterly
296 check-ins described in subarticle (f) above, review the need for a Repayment Contract. If a
297 Repayment Contract is necessary, Reclamation will seek delegated authority from the
298 Commissioner to negotiate and execute said contract, which will be an exhibit to this Agreement.
299 The Parties will closely monitor the potential for reimbursable costs and the need for a
300 Repayment Contract and conduct any necessary financial analysis, in accordance with PEC 11-
301 01, prior to executing any such contract.

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

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

308 (h) The duties and obligations of the Parties under subarticles 3(a)(1), 3(b)(1),
309 3(d), and 3(g) would expressly survive termination of this Agreement.

310 **MANAGEMENT OF EXPANDED RESERVOIR**

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

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

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

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

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

332 (e) Authority-Managed Share of Expanded Reservoir:

333 (1) The Parties agree that the Investors, through the Authority, possess
334 the ability to partner with non-Investor parties regarding the use, marketing, and/or lease of
335 capacity within the Authority-Managed Share of Expanded Reservoir and/or the storage of water
336 in the Authority-Managed Share of Expanded Reservoir. The Authority shall indemnify the

337 United States, its officers, employees, and agents of damage or claim of any nature whatsoever
338 for which there is any legal responsibility derived from these third-party agreements.

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

348 (3) Non-Project Water

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

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

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

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

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

372 (4) Acquired Project Water

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

381 available CVP water supplies; (4) upon Shasta Critical Year/Critical Year determination; and (5)
382 with agreed upon compensation for Reclamation's use of Acquired Project Water per one or
383 more of the following options, based on the option of the Investor(s) as communicated by the
384 Water Coordinator to Reclamation, and as soon as practicable:

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

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

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

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

402 (5) Project Water

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

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

415 (a) Following the filling of the Federal Share of
416 Historic Reservoir, Reclamation will make a determination that Article 3(f) water is available to
417 all south-of-Delta CVP Water Service/Repayment Contractors with the capacity to take Article
418 3(f) water.

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

422 (1) Reclamation will fill the Expanded
423 Reservoir until such a time that the Authority-Managed Share of Expanded Reservoir is full or
424 the Authority-Managed Share and the Federal Share of Expanded Reservoir are full.

425 (2) Any Article 3(f) water used to fill a portion
426 of the Authority-Managed Share of Expanded Reservoir will be allocated by the Water
427 Coordinator to the Investors in proportion to their investment within the Authority-Managed
428 Share of the Expanded Reservoir.

429 (3) Water made available under this subarticle
430 4(e)(5)(ii) and stored in the Authority-Managed Share of Expanded Reservoir can be scheduled
431 for delivery at a later date in coordination with the Water Coordinator.

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

441 (6) If Reclamation uses Acquired Project Water or Project Water
442 stored in the Authority-Managed Share of Expanded Reservoir to meet the enumerated CVP
443 purposes above, Reclamation shall reimburse or credit the Authority for the applicable OM&R
444 costs. Therefore, the quantity of Project Water used by Reclamation will be included in the
445 calculation of that Year's Federal OM&R cost obligation allocated by DWR for the Expanded
446 Reservoir and will be deducted from the Authority's share of OM&R cost obligation for the Year
447 in which Acquired Project Water or Project Water was used by Reclamation. Notwithstanding

448 the foregoing, if Reclamation uses Project Water stored in the Authority-Managed Share of
449 Expanded Reservoir, the Parties will meet and confer to determine any additional reimbursement
450 or remedy that may be appropriate.

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

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

469 (f) Displacement of Project Water – In order to store Non-Project Water or
470 Acquired Project Water in the Authority-Managed Share of Expanded Reservoir, the Water
471 Coordinator, in coordination with Reclamation, will if needed, move Project Water out of the
472 Authority-Managed Share of Expanded Reservoir. Project Water can be transferred, exchanged,
473 or delivered subject to applicable statutes, regulations, guidelines, and policies. If the Project
474 Water cannot be timely transferred, exchanged, or delivered, it will move in the following way
475 and in the following order of priority:

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

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

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

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

489 (h) Operation and Maintenance Costs of the San Luis Reservoir – As a result
490 of the Expanded Reservoir, Reclamation may have an increased share of the cost of the operation

491 and maintenance of the B.F. Sisk Dam and San Luis Reservoir. The Parties agree that costs will
492 be paid consistent with existing laws, agreements, and policy, as may be amended or superseded.
493 Further, the Authority agrees it will specifically pay for OM&R costs associated with the
494 Authority-Managed Share of Expanded Reservoir; the details regarding such payment and costs
495 will be defined in an OM&R Agreement, which will be an Exhibit to this Agreement.

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

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

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

504 (3) Provide for a dispute resolution process.

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

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

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

518 (j) The duties and obligations of the Parties under this Article 4 would
519 expressly survive termination of this Agreement.

520 **COORDINATION AND COOPERATION**

521 5. (a) In order to further the goals and objectives of this Agreement,
522 Reclamation and the Authority shall communicate, coordinate, and cooperate with each other.
523 The communication, coordination, and cooperation provided for hereunder shall extend to all
524 provisions of this Agreement. Each Party shall retain exclusive decision-making authority for all
525 actions, opinions, and determinations to be made by the respective Party.

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

530 **EXISTING CONTRACTS**

531 6. Nothing in this Agreement, in any way, alters, changes, or amends existing Water
532 Service/Repayment Contracts with the United States.

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DISPUTE RESOLUTION

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7. Should any dispute arise concerning any provisions of this Agreement, or the

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Parties' rights and obligations thereunder, the United States and the Authority shall meet and

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confer in an attempt to resolve the dispute. Prior to the Authority commencing any legal action,

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or the Contracting Officer referring any matter to the Department of Justice, the party shall

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provide to the other party thirty (30) days' written notice of the intent to take such action;

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Provided, That such notice shall not be required where a delay in commencing an action would

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prejudice the interests of the party that intends to file suit. During the thirty (30)-day notice

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period, the parties shall meet and confer in an attempt to resolve the dispute. Except as

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specifically provided, nothing herein is intended to waive or abridge any right or remedy that the

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Authority or the United States may have.

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WAIVER OF NON-COMPLIANCE WITH ANY PROVISION OF THIS AGREEMENT

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8. (a) The waiver by either Party to this Agreement as to any non-compliance

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with any provision of this Agreement shall not be construed as a waiver of any other non-

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compliance with any provision of this Agreement or as authority of the other Party to continue

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such non-compliance with any provision of this Agreement or to make, do, or perform, or not

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make, do, or perform, as the case may be, any act or thing which would constitute non-

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compliance with any provision of this Agreement.

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(b) Nothing contained in this Agreement shall be construed as in any manner

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abridging, limiting, or depriving the United States, represented by the Contracting Officer, or the

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Authority of any means of enforcing any remedy, either at law or in equity, for the breach of any

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of the provisions hereof which it would otherwise have.

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OPINIONS AND DETERMINATIONS

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9. (a) Where the terms of this Agreement provide for actions to be based upon

557 the opinion or determination of either party to this Agreement, said terms shall not be construed

558 as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or

559 determinations. Both Parties, notwithstanding any other provisions of this Agreement, expressly

560 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious,

561 or unreasonable opinion or determination. Each opinion or determination by either Party shall be

562 provided in a timely manner. Nothing in this subdivision (a) of this Article is intended to or shall

563 affect or alter the standard of judicial review applicable under Federal law to any opinion or

564 determination implementing a specific provision of Federal law embodied in statute or

565 regulation.

566

(b) The Contracting Officer shall have the right to make determinations

567 necessary to administer this Agreement that are consistent with the provisions of this Agreement,

568 the laws of the United States and of the State of California, and the rules and regulations

569 promulgated by the Secretary. Such determinations shall be made in consultation with the

570 Authority to the extent reasonably practicable.

571

NOTICES

572 10. Any notice, demand, or request authorized or required by this Agreement shall be

573 deemed to have been given, on behalf of the Authority, when mailed, postage prepaid, or delivered

574 to the Regional Director, California Great Basin Region, Bureau of Reclamation, 2800 Cottage

575 Way, Sacramento, CA, 95825, and on behalf of the United States, when mailed, postage prepaid,

576 or delivered to the San Luis & Delta-Mendota Water Authority, 842 6th Street, Los Banos, CA

577 93635.

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

580 11. The expenditure or advance of any money or the performance of any obligation of
581 the United States under this Agreement shall be contingent upon appropriation or allotment of
582 funds. Absence of appropriation or allotment of funds shall not relieve the Authority from any
583 obligations under this Agreement. No liability shall accrue to the United States in case funds are
584 not appropriated or allotted.

585 **OFFICIALS NOT TO BENEFIT**

586 12. No Member of or Delegate to the Congress, Resident Commissioner, or official of
587 the Authority shall benefit from this Agreement other than as a water user or landowner in the
588 same manner as other water users or landowners.

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

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

593 **BOOKS, RECORDS, AND REPORTS**

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

604 **COMPLIANCE WITH FEDERAL RECLAMATION LAWS**

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

610 **EQUAL EMPLOYMENT OPPORTUNITY**

611 16. The following language is required by Executive Order No. 11246 of September
612 24, 1965, in all government contracts unless and until it is superseded or amended.

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

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

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

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

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

644 (e) The Authority will comply with all provisions of Executive Order No.
645 11246 of Sept. 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of
646 Labor.

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

652 (g) In the event of the Authority's noncompliance with the nondiscrimination
653 clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may

654 be canceled, terminated or suspended in whole or in part and the Authority may be declared
655 ineligible for further Government contracts in accordance with procedures authorized in
656 Executive Order No. 11246 of Sept. 24, 1965, and such other sanctions may be imposed and
657 remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule,
658 regulation, or order of the Secretary of Labor, or as otherwise provided by law.

659 (h) The Authority will include the provisions of paragraphs (a) through (h) in
660 every subcontract or purchase order unless exempted by the rules, regulations, or orders of the
661 Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September
662 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The
663 Authority will take such action with respect to any subcontract or purchase order as may be
664 directed by the Secretary of Labor as a means of enforcing such provisions, including sanctions
665 for noncompliance: Provided, however, that in the event the Authority becomes involved in, or is
666 threatened with, litigation with a subcontractor or vendor as a result of such direction, the
667 Authority may request the United States to enter into such litigation to protect the interests of the
668 United States.

669 **COMPLIANCE WITH CIVIL RIGHTS**

670 17. (a) The Authority shall comply with Title VI of the Civil Rights Act of 1964
671 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1973 (Pub. L. 93-112, Title V, as
672 amended; 29 U.S.C. § 791, et seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title
673 III; 42 U.S.C. § 6101, et seq.), Title II of the Americans with Disabilities Act of 1990 (Pub. L.
674 101-336; 42 U.S.C. § 12131, et seq.), and any other applicable civil rights laws, and with the
675 applicable implementing regulations and any guidelines imposed by the U.S. Department of the
676 Interior and/or Bureau of Reclamation.

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

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

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

694

CERTIFICATION OF NONSEGREGATED FACILITIES

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

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716 NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
 717 CERTIFICATIONS OF NONSEGREGATED FACILITIES

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

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MEDIUM FOR TRANSMITTING PAYMENTS

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

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

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AGREEMENT DRAFTING CONSIDERATIONS

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

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

744

745 THE UNITED STATES OF AMERICA

746 By: _____
747 Regional Director
748 Interior Region 10: California-Great Basin
749 Bureau of Reclamation
750

751 San Luis & Delta-Mendota Water Authority
752 (SEAL)

753 By: _____
754 Chair, Board of Directors
755

755 Attest:

756 _____
757 Secretary
758