

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

CONTRACT BETWEEN THE UNITED STATES OF AMERICA
AND
FRIANT WATER AUTHORITY
FOR THE REPAYMENT OF EXTRAORDINARY
MAINTENANCE COSTS FOR THE FRIANT-KERN CANAL MIDDLE REACH
CAPACITY CORRECTION PROJECT

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Exhibit A Cost Share Agreement No. 21-WC-20-5856

Exhibit B List of Obligations to Convey and Distribute Water in and from the
Project Works¹

Exhibit C Payment Schedule(s)

Exhibit Placeholder for supporting docs if needed (Construction/Solicitation?)

¹ If this XM Repayment Contract outlives the existing Transfer Agreement term, we may need to insert additional standard articles in this Repayment Contract.

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THIS CONTRACT made this ____ day of _____, 2021, pursuant to the Reclamation Act of June 17, 1902 (32 Stat. 388), and acts amendatory and supplementary thereto, including but not limited to, Title IX, Subtitle G, Section 9603 of the Omnibus Public Land Management Act of March 30, 2009 (P.L. 111-11, 123 Stat. 1348, 43 U.S.C. § 510b), all collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as the “United States”, and the FRIANT WATER AUTHORITY, hereinafter referred to as the “FWA”, a joint powers authority duly organized, existing, and acting pursuant to the laws of the State of California; both hereinafter may be referred to as a Party individually or the Parties collectively.

WITNESSETH, That:

RECITALS

a. The United States has constructed and is operating the Central Valley Project (CVP), California, for diversion, storage, carriage, distribution and beneficial use, for flood control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and restoration, generation and distribution of electric energy, salinity control, navigation and other

beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the San Joaquin River and their tributaries; and

b. The United States and FWA executed a renewal operation, maintenance, and replacement (OM&R) Transfer Agreement No. 8-07-20-X0356-X, for thirty-five (35) years effective October 5, 2020, through October 5, 2055. Hereinafter referred to as the Transfer Agreement, which transferred the responsibility for OM&R of the Friant-Kern Canal and Associated Works, a primary conveyance facility(ies) of the CVP, Friant Division; and

c. Pursuant to Section 9603 of P.L. 111-11, the Secretary of the Interior, acting through the Bureau of Reclamation (Reclamation), is authorized to construct Extraordinary Operation and Maintenance (XM) Work and to negotiate a contract for repayment of those Project Costs, with interest; and

d. Following the drought years of 2014 and 2015, it was observed that the Friant-Kern Canal could no longer convey its historical water quantities between mile – post (MP) 88.1 to 121.5, largely resulting from subsidence caused by groundwater overdraft in the region; and

e. P.L. 111-11, section 10201(a)(1) directs and authorizes the Secretary of the Interior to conduct feasibility studies to restore the capacity of the Friant-Kern Canal to such a capacity as originally designed and constructed by Reclamation and to construct a feasible project using funds available in Section 10203(a) and (c). All funds made available for the XM Project under the San Joaquin River Restoration Settlement Act (Public Law 111-11, Title X, Part III (a) (1)), are Non-Reimbursable; and

f. Reclamation signed a Record of Decision for the XM Project dated November 4, 2020, which provided the environmental coverage for moving forward with the XM Project and allows for the execution of this Repayment Contract; and

g. Reclamation determined that this XM Repayment Contract complies with all applicable Federal, State, and local laws, rules, and regulations, including but not limited to the National Environmental Policy Act of 1969 (Pub. L. 91-190, as amended and supplemented, 42 U.S.C. § 4321, et seq.), the Endangered species Act (16 U.S.C. § 1531, et seq.), and the National Historic Preservation Act of 1966, October 15, 1966, as amended (Pub. L. 89-665; 80 Stat. 915; 16 U.S.C. § 470 et seq.), as required; and

h. The FWA will comply with applicable environmental measures contained in any environmental documentation prepared in connection with the XM Work; and

i. The Water Infrastructure and Improvements for the Nation (WIIN) Act – Section 4007 prescribes Federal involvement for water storage projects. As defined by the WIIN Act, the project is a Federally-owned water storage project and, as a result, the Secretary of the Interior may participate in the project in an amount no greater than fifty percent (50%) of the total cost of the Federally-owned water storage project inclusive of other Federal funding. In order to commence construction of the XM Project, the Secretary of the Interior must: a) determine that the project is feasible, b) secure an agreement providing upfront funding as is necessary to pay the non-Federal share of the Project Costs, which is the purpose of the Cost Share Agreement No. 21-WC-20-5856 in Exhibit A herein, and c) determine that in return for the Federal cost-share investment at least a proportionate share of the XM Project benefits are Federal benefits; and

j. Consistent with the Feasibility Study of January 2020 (hereinafter referred to as the Feasibility Study), and subsequent cost estimates, Reclamation estimated the total Project Costs to repair the Friant–Kern Canal between MP 88.1 and 121.5 are \$500 million with a total net benefit of just under \$999.4 million, which include up to \$44,226,800 of fish and wildlife

enhancements and flood control benefits (Non-Reimbursable) up to \$41.9 million of statutorily mandated Non-Reimbursable water supply benefits (P.L. 111-11 sec. 10201 and 10203), and \$913,273,200 in Reimbursable water supply benefits; and

k. Consistent with P.L. 111-11 Section 9603, the Secretary of the Interior may carry out any extraordinary operation and maintenance work on a project facility that the Secretary of the Interior determines to be reasonably required to preserve the structural safety of the project facility and negotiate appropriate repayment contracts with project beneficiaries providing for the return of Reimbursable Costs, with interest; provided, however, that no contract entered into pursuant to subtitle P.L. 111-11 Section 9603 will be deemed to be a new or amended contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (43 U.S.C. 390cc(a)); and

l. Reclamation determined that the XM Project in this Repayment Contract meets the definition of “Extraordinary Operation and Maintenance Work” (Title IX, Section 9601 of Public Law 111-11); and

m. Reclamation and the FWA share the cost of the XM Project as required by the WIIN Act with the United States contributing up to 50% of the XM Project Costs associated with Federal benefits; and

n. The FWA is responsible for the repayment of Reimbursable costs of the Federal investment in the Project, as determined by Reclamation in addition to providing the FWA’s share of the XM Project Costs; and

o. The repayment of XM Project Costs will be structured consistent with P.L. 111.11, Section 9603; and

p. Reclamation in consultation with the FWA determined that it is in the best interest of both Parties for Reclamation to complete the XM Work; and

q. The FWA and Reclamation have determined that the XM Project was initiated as an Extraordinary Operation and Maintenance action and on April 28, 2021, Reclamation and the FWA entered into a Cost Share-Contributed Funds Agreement Numbered 21-WC-20-5856, hereinafter referred to as Cost Share Agreement also provided in Exhibit A of this Repayment Contract; and

r. The FWA may collect from the Friant Contractors identified in Exhibit B in this Repayment Contract (which may be updated upon mutual written agreement between the Parties, without amending this Repayment Contract.) Friant Contractors are serviced by the Friant - Kern Canal and subject to water service or repayment contracts from the Friant – Kern Canal as OM&R charges pursuant to Article 12 of the Transfer Agreement and the XM Project Costs (defined in Article x herein), for which FWA is responsible as Reclamation’s non-federal cost share partner under the Cost-Share Agreement and this XM Repayment Contract.

In consideration of the mutual and dependent covenants herein contained, the Parties mutually agree as follows:

DEFINITIONS

1. When used in this Repayment Contract, the term:

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

(b) “Contracting Officer” shall mean the Secretary of the Interior’s duly authorized representative acting pursuant to this Repayment Contract and applicable Federal Reclamation law or regulation.

(c) “Extraordinary Operation and Maintenance Work” or “XM Work” (consistent with P. L. 111-11) shall mean major nonrecurring maintenance to Reclamation-owned or operated facilities, or facility components, that is--intended to ensure the continued safe, dependable, and reliable delivery of authorized project benefits. The XM Work involving greater than 10 percent of the FWA’s annual operation and maintenance budget for the facility(ies), or greater than \$100,000

(d) “Extraordinary Maintenance Project,” “XM Project,” or “Friant-Kern Canal Middle Reach Capacity Correction Project” shall mean the reoperation of Friant Dam and the replacement, repair, and capacity correction to the middle reach of the Friant–Kern Canal, to restore capacity to the Friant–Kern Canal as originally designed and constructed by the United States in accordance with the XM Project Feasibility Study. The XM Work will be performed by the United States pursuant to Section 9603 of P.L. 111-1. The XM Project may be completed in phases.

(e) “Extraordinary Maintenance Project Costs” or “XM Project Costs” shall be all costs incurred by the United States in accordance with the terms of this Repayment

Contract directly related to the XM Project. Subject to the provisions of this Repayment Contract, the term shall include, but is not necessarily limited to engineering and design costs, construction costs, and project close out costs.

(f) “Fiscal Year” shall mean the period October 1 through September 30 of the following year.

(g) “Interest During Construction” or “IDC” shall mean that amount of annual or half-annual interest, identified in the then-current Exhibit C attached hereto, on the XM Project Costs expended between the first date of the quarter when funds were first disbursed for construction of the XM Project and the date of Substantial Completion of the XM Project.

(h) “Interest on Investment” or “IOI” shall mean the interest on the unpaid balance of the Repayment Obligation.

(i) “Non-Reimbursable” shall mean exempted from repayment pursuant to applicable legislation. For the purposes of the Friant–Kern Canal Middle Reach Capacity Correction Project, applicable legislation that justifies non-reimbursable spending is the San Joaquin River Restoration Settlement Act (Public Law 111-11, Title X, Part III(a)(1)), the Reclamation Project Act of 1939, and the Federal Water Project Recreation Act of 1965 (Public Law 8072, as amended).

(j) “Reimbursable” shall mean requiring repayment to the United States pursuant to applicable legislation. For the purposes of the XM Project, all Reimbursable funds will be provided and recovered pursuant to Title IX, Subtitle G of the Omnibus Public Land Management Act of 2009 (Act of March 30, 2009, Public Law 111-11; 43 U.S.C. §510), and under the terms of this Repayment Contract.

(k) “Repayment Obligation” shall mean the entire sum of funds expended by the United States to complete the XM Project, plus accrued interest, as determined by the Contracting Officer in accordance with Article 4 herein, minus any direct funding from Non-Reimbursable sources or non-Federal funding.

(l) “Substantial Completion” or “Substantially Complete shall mean the Contracting Officer’s determination, that the XM Work is sufficiently complete so that the United States or the FWA can use, operate, or occupy the specific XM Work for its intended purpose.

(m) “Year” shall mean the period January 1 through December 31, both dates inclusive.

TERM OF THE CONTRACT

2. This Repayment Contract will become effective on the date first written above and will remain in effect until the FWA has fully repaid its Repayment Obligation to the United States as will be described in the Exhibit C² herein. Exhibit C will be updated and finalized upon the Contracting Officer’s issuance of the written notice of Substantial Completion. Said notice will be provided consistent with the Notice Article _ herein.

EXTRAORDINARY MAINTENANCE PURSUANT TO SECTION 9603 OF P.L. 111-11

3. (a) The XM Project will include, but is not limited to, the reoperation of Friant Dam and the restoration of capacity as originally designed and constructed by the United States between Mile-Post 88.1 – 121.5 by raising and widening portions of the existing Friant-Kern Canal and replacing a portion of the Friant-Kern Canal by constructing a replacement section directly east of the existing Friant-Kern Canal to a capacity of approximately 4,000 cubic

² As approved by Reclamation’s Law and Administration Division, Lakewood, Colorado

feet per second (specific capacity varies by location), and any environmental mitigation associated with the Friant-Kern Canal replacement work, in accordance with the Friant-Kern Canal Middle Reach Capacity Correction Feasibility Study.

(b) The Contracting Officer will provide the FWA with a report covering construction status, specifications conformance, progress status, and accounting analyses.

(c) The Contracting Officer will provide the FWA a draft XM Project Cost report for the XM Project after the XM Work (construction) is deemed Substantially Complete by the Contracting Officer. The FWA will have 120 days from receipt of this draft to review and provide any written comments to the Contracting Officer consistent with the Notice Article ____ herein. The FWA will have access to documentation relating to the XM Project Costs throughout the 120-day review period. Upon the Contracting Officer receiving the FWA's written comments and conducting subsequent consultation with the FWA, if needed, the Contracting Officer will issue the final XM Project Cost report and total Repayment Obligation in replacement of the then-existing draft Exhibit C.

(d) Article 1 of the FWA Transfer Agreement defines what constitutes the operation, maintenance, and replacement of the transferred "Project Works."

FRIANT WATER AUTHORITY'S REPAYMENT OBLIGATION

4. (a) The FWA shall be obligated to repay the Repayment Obligation for the XM Work subject to this Repayment Contract, which might be completed in phases.

(b) The interest rate used for computing IDC on XM Project Costs in progress and IOI on the unpaid balance of the Repayment Obligation in accordance with Section 9603(b)(3) of P.L. 111-11 is the Department of the Treasury rate as of the beginning of the Fiscal Year in which the XM Work is commenced under this Repayment Contract, on the basis of

average market yields on outstanding marketable obligations of the United States with the remaining periods of maturity comparable to the applicable reimbursement period of the XM Work, adjusted to the nearest 1/8 of 1 percent on the unamortized balance of any portion of the Repayment Obligation. Each phase will be subject to interest accrual which will commence in the Fiscal Year in which the XM Work for that phase is commenced, as determined by the Contracting Officer.

(c) The first Repayment Obligation installment will be due and payable on or before the last day of February of the Year following the date on which the Contracting Officer determines and notifies the FWA in writing that the XM Work is Substantially Complete.

(d) As soon as practicable following the determination that the XM Work is Substantially Complete, and after consultation with the FWA, the Contracting Officer will provide the FWA with the final repayment schedule(s) requiring equal annual installments within the term provided in Article 5(e) of this Repayment Contract, beginning with the first installment as provided in Article 5(c) of this Repayment Contract, which schedule(s) shall be incorporated into this Repayment Contract as Exhibit C, and may be updated by the Contracting Officer without amendment of this Repayment Contract.

(e) The Repayment Obligation amounts will be repaid within thirty (30) years.

(f) The FWA may, at any time, prepay all or a portion of the unpaid Repayment Obligation balance as provided herein without penalty, notwithstanding any interest accrued.

REIMBURSABILITY OF PROJECT COSTS

5. In accordance with the Feasibility Study and the Cost Share Agreement, the XM Project Costs associated with benefits other than fish and wildlife enhancements, flood

control, and statutorily mandated water supply (P.L. 111-11, Part III, Sections 10201 and 10203), will be fully Reimbursable as specified by the terms of this Repayment Contract. Project benefits will be determined for each phase of the XM Project. The final project benefit calculation, along with the amount of Reimbursable XM Project Costs, will be determined upon the final resolution of the XM Project Costs for the XM Project upon written notification by the Contracting Officer of Substantial Completion. If the XM Project is not fully implemented as represented in the Feasibility Study, the Parties acknowledge and agree that the allocation of Non-Reimbursable funds will be reallocated as Reimbursable, if appropriate, based on the final XM Work benefit calculation of the XM Project as constructed. Funds reallocated from Non-reimbursable to Reimbursable will be repaid with interest as specified by the terms of this Repayment Contract. In accordance with Section 4007 of the WIIN Act, under no circumstance will Reclamation participate in the XM Project in an amount greater than fifty percent (50%) of the XM Project Costs as constructed.

TITLE TO REMAIN IN THE UNITED STATES

6. (a) Title to the XM Project Work shall be and remain in the name of the United States unless otherwise provided by Congress, notwithstanding the full payment to the United States, of the FWA Repayment Obligation sum under this Repayment Contract.

(b) The rights and obligations created hereby are supplementary to and do not supersede or affect the rights and obligations under any prior contracts between the United States and the FWA except as provided in sub-Article 7 (b) of this Repayment Contract.

SEVERABILITY

7. (a) In the event that any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity,

illegality, or unenforceability shall not affect any other provisions of this Repayment Contract, instead, this Repayment Contract shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein, unless the deletion of such provisions would result in such a material change so as to cause the fundamental benefits afforded the Parties to this Repayment Contract to become unavailable or materially altered.

b. In the event of differences between this Repayment Contract and the Cost Share Agreement in Exhibit C herein, this Repayment Contract controls. Otherwise the Parties may remedy the differences pursuant to the Resolution of Dispute Article 8, herein.

RESOLUTION OF DISPUTES

8. Should any dispute arise concerning any provision of this Repayment Contract, the Area Manager, South-Central California Area Office, will meet and confer with the FWA in an attempt to resolve the dispute within ninety (90) days. If the dispute has not been resolved within the initial ninety (90) days, the dispute shall be referred to the Contracting Officer for a subsequent ninety (90) days within which to resolve the dispute.

COMPLIANCE WITH FEDERAL RECLAMATION LAWS

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

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Repayment Contract that are consistent with its expressed and implied provisions, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with the Contractor.

CHARGES FOR DELINQUENT PAYMENTS

10. (a) The FWA shall be subject to interest, administrative, and penalty charges on delinquent payments. If a payment is not received by the due date, the FWA shall pay an

interest charge on the delinquent payment for each day the payment is delinquent beyond the due date. If a payment becomes sixty (60) days delinquent, the FWA shall pay, in addition to the interest charge, an administrative charge to cover additional costs of billing and processing the delinquent payment. If a payment is delinquent ninety (90) days or more, the FWA shall pay, in addition to the interest and administrative charges, a penalty charge for each day the payment is delinquent beyond the due date, based on the remaining balance of the payment due at the rate of six (6) percent per year. The FWA shall also pay any fees incurred for debt collection services associated with a delinquent payment.

(b) The interest rate charged shall be the greater of either the rate prescribed quarterly in the *Federal Register* by the Department of the Treasury for application to overdue payments, or the interest rate of 0.5 percent per month. The interest rate charged will be determined as of the due date and remain fixed for the duration of the delinquent period.

(c) When a partial payment on a delinquent account is received, the amount received shall be applied first to the penalty charges, second to the administrative charges, third to the accrued interest, and finally to the overdue payment.

BOOKS, RECORDS, AND REPORTS

11. The FWA shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this Repayment Contract, including the FWA's financial transactions; water supply data; project operation, maintenance, and replacement logs; project lands and rights-of-way use agreements; and other matters that the Contracting Officer may require. Reports shall be furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer may require. Subject to applicable Federal law and regulations, each Party to this Repayment Contract shall have the right during officer hours to examine and make copies of the other Party's books and records relating to matters covered by this Repayment Contract.

RULES, REGULATIONS, AND DETERMINATIONS

12. (a) The Parties agree that the delivery of water or the use of Federal facilities pursuant to this Repayment Contract is subject to Federal reclamation law, as amended and supplemented, and the rules and regulations promulgated by the Secretary of the Interior under Federal reclamation law.

(b) The Contracting Officer shall have the right to make determinations necessary to administer this Repayment Contract that are consistent with its expressed and implied provisions, the laws of the United States and the State of California, and the rules and regulations promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with the FWA.

GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT

13. (a) The obligation of the FWA to pay the United States as provided in this Repayment Contract is a general obligation of the FWA notwithstanding the manner in which the

obligation may be distributed among the FWA's water users and notwithstanding the default of individual water users in their obligation to the FWA.

(b) The payment of charges becoming due pursuant to this Repayment Contract is a condition precedent to receiving benefits under this Repayment Contract.

(c) The FWA shall not deliver water through Project facilities during any period in which a water user is in arrears in the payment of the XM Repayment Costs due the United States.

NOTICES

14. (a) Any notice, demand, or request authorized or required by this Repayment Contract shall be deemed to have been given, on behalf of the FWA, when mailed, postage prepaid, or delivered to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721, Bureau of Reclamation, and on behalf of the United States, when mailed, postage prepaid, or delivered to the Executive Director of the FWA, 854 North Harvard Avenue, Lindsay, CA 93247-1715. The designation of the addressee or the address may be changed by notice given in the same manner as provided in this Article for other notices.

(b) This sub-Article 14 (a) herein shall not preclude the effective service of such notices by other mutually agreeable measures.

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

15. The expenditure or advance of any money or the performance of any obligation of the United States under this Repayment Contract shall be contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds shall not relieve the FWA from any obligations under this Repayment Contract. No liability shall accrue to the United States in case funds are not appropriated or allotted

OFFICIALS NOT TO BENEFIT

16. No Member of or Delegate to the Congress, Resident Commissioner, or official of the FWA shall benefit from this Repayment Contract other than as a water user or landowner in the same manner as other water users or landowners.

ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

17. The provisions of this Repayment Contract shall apply to and bind the successors and assigns of the respective parties, but no assignment or transfer of this Repayment Contract or any right or interest therein by either Party shall be valid until approved in writing by the other Party.

EQUAL EMPLOYMENT OPPORTUNITY

18. During the performance of this Repayment Contract, the FWA agrees as follows:

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

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

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

(d) The FWA will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency Contracting Officer, advising the labor union or workers' representative of the FWA's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The FWA will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules regulations and relevant orders of the Secretary of Labor.

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

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

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

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

19. (a) The FWA shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1975 (Pub. L. 93-112, Title V, as amended; 29 U.S.C. § 791, et. Seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title III; 42 U.S.C. § 6101, et seq.), Title III of the Americans with Disabilities Act of 1990 (Pub. L. 101-336; 42 U.S.C. § 12181, et seq.), and any other applicable civil rights laws, and with the applicable implementing regulations and any guidelines imposed by the U.S. Department of the Interior and/or Bureau of Reclamation.

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

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

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

CERTIFICATION OF NONSEGREGATED FACILITIES

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

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR
CERTIFICATIONS OF NONSEGREGATED FACILITIES

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

MEDIUM FOR TRANSMITTING PAYMENTS

21. (a) All payments from the FWA to the United States under this Repayment Contract shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States.

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

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CONTRACT DRAFTING CONSIDERATIONS

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22. This Repayment Contract has been negotiated and reviewed by the Parties hereto, each of whom is sophisticated in the matters to which this Repayment Contract pertains. All double-spaced, non-standard Articles, or portions thereof of this Repayment Contract have been drafted, negotiated, and reviewed by the Parties, and no one Party shall be considered to have drafted the stated Articles.

461 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of
462 the day and year first above written.

463 UNITED STATES OF AMERICA

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By: _____

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Regional Director

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Interior Region 10: California-Great Basin

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Bureau of Reclamation

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FRIANT WATER AUTHORITY

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475 (SEAL)

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By: _____

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Chair, Board of Directors

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483 Attest:

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Secretary

EXHIBIT A

Friant Water Authority
Friant Division, Central Valley Project

Cost Share Agreement No. 21-WC-20-5856

And Reference the Map of Facilities in the Middle Reach identified in this Contract
See Attachment of Ex A the Cost Share Agreement

EXHIBIT B

Friant Water Authority
Friant Division, Central Valley

List of Obligations to Convey and Distribute Water In and From the Project Works³
Transfer Agreement

³ Excerpt the Exhibit B from the Transfer Agreement

EXHIBIT C

Friant Water Authority

Friant Division, Central Valley Project

Will be finalized upon the Contracting Officer's issuance of Substantial Completion Notice

Draft Repayment Schedule

PLACEHOLDER

EXHIBIT _____

Friant Water Authority
Friant Division, Central Valley Project

Any Referenced As Builts or Other Necessary Construction Documents, etc.

Cost Share Agreement has a Construction Management Plan
Also, Follow-up with the Willow Construction Contract via Acquisitions
Consider a Statement Making the Parties Subject to the As Builts & Construction⁴ Documents

The Acquisition Solicitation submitted May 4, 2021

⁴ Cost Share Agreement p.6 references Final design & specifications to be prepared under the terms of the FAA & this CFA CS Agreement.
Note: Denver TSC working on final design packages for use with the bid solicitations. Designs' objective is to restore the designed & constructed capacity of the FKC in middle reach.
Phase 1 of the Project includes Segments D, E. & F of CFA-CS Agreement Ex A.