

### **FEDERAL PARTICIPATION IN THE SITES PROJECT**

3. Pursuant to WIIN Act § 4007, Reclamation has the authority to participate up to twenty-five (25) percent in State-led storage projects.

(i) Subject to this Agreement, Reclamation is committing to pay for and the Sites Authority hereby grants Reclamation ownership of a [sixteen (16) percent Base Facilities Capacity Interest] **[Note: Sites Authority requires a firm commitment from all Participants]** and an ability to utilize up to 16 percent of Sites Water originating from the Sacramento River provided however the Parties agree that

(ii) **[Note: Confirming Sites intends to reference the MOU with Colusa in the Recitals per prior discussions]** Reclamation bears the risk of loss, shortfall or reduction in Sites Water **[Note: This is consistent with all Participants]**.

(iii)

(b) The Sites Authority shall allocate to each Storage Partner who requests to participate in the funding and use of Downstream Facilities, a Downstream Facilities Capacity Share in the amounts described in Exhibit [ ] and otherwise in accordance with this Agreement. **[Note: This is consistent with other Participants and may need to be revised if sales are made to Participants requiring a Downstream Interest. This issues remains under consideration by Participants.]**

(c)

(d) Reclamation intends to use its Sites Water for operational flexibility and Anadromous Fish Benefits consistent with its Capacity Interest and Share, as identified in the November 2022 North of Delta Off-stream Storage Investigation Feasibility Report Addendum

(Addendum) and shall make reasonable and beneficial use of Sites Water consistent with all applicable law.

(e) **[Note: Sites is not providing revisions for Article 16 at this time**

**however notes that it continues to consider Reclamation should be treated no differently to other Participants with respect to right of first refusal. Suggest deleting from here and addressing in Article 16 only].**

(f) Reclamation will use commercially reasonable efforts to execute contracts on a schedule to support Project implementation with the Authority following standard terms and conditions covering the following items:

(i) Conveyance of IL4 refuge water supplies from Refuge Water Points of Acceptance to Refuge Water Points of Delivery.

(ii) Excess Capacity Agreement covering the use of all Federal Facilities necessary for conveying Sites Water to all Storage Partners.

(iii) Land Use Authorization allowing use of any Federally-owned property needed to locate and build Sites Project Facilities.

(iv) Provision of non-potable water service for the duration of construction at Project worksites conveniently served from existing Federal Facilities. **[This was deleted as what is attributed to Reclamation's Federal investment belongs in a different clause on in-kind services.]**