

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

Table of Contents

<u>Article No.</u>	<u>Title</u>	<u>Page No.</u>
	Preamble	1
	Recitals.....	1-5
1	Definitions.....	5-8
2	Term of The Contract.....	8
3	Extraordinary Maintenance Pursuant to Section 9603 of P.L. 111-11	8-9
4	Friant Water Authority's Repayment Obligation	9-11
5	Reimbursability of XM Project Costs.....	11
6	Title to Remain in the United States	12
7	Severability	12
8	Resolution of Disputes.....	12-13
9	Compliance with Federal Reclamation Laws	13
10	Charges for Delinquent Payments	13
11	Books, Records, and Reports.....	13-14
12	Rules, Regulations, and Determinations.....	14
13	General Obligation - Benefits Conditioned Upon Payment	14
14	Notices	15
15	Contingent on Appropriation or Allotment of Funds	15
16	Officials Not to Benefit.....	15
17	Assignment Limited - Successors and Assigns Obligated.....	15
18	Equal Employment Opportunity	15-27
19	Compliance with Civil Rights Laws and Regulations	17
20	Certification of Nonsegregated Facilities	17-18
21	Medium for Transmitting Payments	18
22	Contract Drafting Considerations	18

Signature Page 19

Exhibit A Cost Share Agreement No. 21-WC-20-5856
Exhibit B Repayment Schedule(s)

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

1 THIS CONTRACT made this 23RD day of SEPTEMBER, 2021, pursuant to the
2 Reclamation Act of June 17, 1902 (32 Stat. 388), and acts amendatory and supplementary
3 thereto, including but not limited to, Title IX, Subtitle G, Section 9603 of the Omnibus Public
4 Land Management Act of March 30, 2009 (P.L. 111-11, 123 Stat. 1348, 43 U.S.C. § 510b), all
5 collectively hereinafter referred to as Federal Reclamation law, between THE UNITED STATES
6 OF AMERICA, acting by and through the Bureau of Reclamation, hereinafter referred to as
7 "Reclamation" or the "United States," and the FRIANT WATER AUTHORITY, hereinafter
8 referred to as "FWA", a joint powers authority duly organized, existing, and acting pursuant to
9 the laws of the State of California; both may be referred to as a "Party" individually or the
10 "Parties" collectively.

11 WITNESSETH, That:

12 RECITALS

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

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

19 b. The United States and FWA executed a renewed operation, maintenance, and
20 replacement (OM&R) agreement (Contract No. 8-07-20-X0356-X), for thirty-five (35) years
21 effective October 5, 2020, through October 5, 2055, “Transfer Agreement” which transferred the
22 responsibility for OM&R of the Friant-Kern Canal and associated works, a primary conveyance
23 facility(ies) of the CVP, Friant Division; and

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

28 d. Following the drought years of 2014 and 2015, it was observed that the Friant–
29 Kern Canal could no longer convey its historical water quantities between mile – post (MP) 88.1
30 to 121.5, (which segment is referred to as the “Middle Reach”) largely resulting from subsidence
31 caused by groundwater overdraft in the region; and

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

38 f. Reclamation signed a Record of Decision for the XM Project dated November 4,
39 2020, which provided the environmental coverage for moving forward with the XM Project and
40 allows for the execution of this Repayment Contract; and

41 g. Reclamation has determined that this XM Repayment Contract complies with all
42 applicable Federal, State, and local laws, rules, and regulations, including but not limited to the
43 National Environmental Policy Act of 1969 (Pub. L. 91-190, as amended and supplemented, 42
44 U.S.C. § 4321, et seq.), the Endangered species Act (16 U.S.C. § 1531, et seq.), and the National
45 Historic Preservation Act of 1966, October 15, 1966, as amended (Pub. L. 89-665; 80 Stat. 915;
46 16 U.S.C. § 470 et seq.), as required; and

47 h. FWA is subject to and will comply with all environmental measures contained in
48 any applicable environmental documentation prepared for the XM Work; and

49 i. The Water Infrastructure and Improvements for the Nation (WIIN) Act – Section
50 4007 prescribes Federal involvement for water storage projects. As defined by the WIIN Act, the
51 project is a Federally owned water storage project and, as a result, the Secretary of the Interior
52 may participate in the project in an amount no greater than fifty percent (50%) of the total cost of
53 the Federally-owned water storage project inclusive of other Federal funding. In order to
54 commence construction of the XM Project, the Secretary of the Interior must: a) determine that
55 the project is feasible, b) secure an agreement providing upfront funding as is necessary to pay
56 the non-Federal share of the XM Project Costs, which is the purpose of the Cost Share and
57 Contributed Funds Agreement No. 21-WC-20-5856, executed April 28, 2021, (“Cost Share
58 Agreement”) in Exhibit A of this Repayment Contract, and c) determine that in return for the
59 Federal cost-share investment at least a proportionate share of the XM Project benefits are
60 Federal benefits; and

61 j. Consistent with the Feasibility Study of January 2020 (“Feasibility Study”), and
62 subsequent cost estimates, Reclamation has estimated the total XM Project Costs to repair the
63 Friant–Kern Canal between MP 88.1 and 121.5 to be \$500 million with a total net benefit of just
64 under \$999.4 million, which include up to \$44,226,800 of fish and wildlife enhancements and
65 flood control benefits (Non-Reimbursable), up to \$41.9 million of statutorily mandated Non-
66 Reimbursable water supply benefits (P.L. 111-11 sec. 10201 and 10203), and \$913,273,200 in
67 Reimbursable water supply benefits; and

68 k. Consistent with P.L. 111-11 Section 9603, the Secretary of the Interior may carry
69 out any extraordinary operation and maintenance work on a project facility that the Secretary of
70 the Interior determines to be reasonably required to preserve the structural safety of the project
71 facility and negotiate appropriate repayment contracts with project beneficiaries providing for
72 the return of Reimbursable XM Project Costs, with interest; provided, however, that no contract
73 entered into pursuant to P.L. 111-11 Section 9603 will be deemed to be a new or amended
74 contract for the purposes of section 203(a) of the Reclamation Reform Act of 1982 (43 U.S.C.
75 390cc(a)); and

76 l. Reclamation has determined that the XM Project in this Repayment Contract
77 meets the definition of “Extraordinary Operation and Maintenance Work” (Title IX, Section
78 9601 of Public Law 111-11); and

79 m. Under the Cost Share Agreement, Reclamation and FWA have agreed to share the
80 cost of the XM Project as required by the WIIN Act with the United States contributing up to
81 50% of the XM Project Costs associated with Federal benefits; and

82 n. The Cost Share Agreement further provides that FWA is responsible for the
83 repayment of Reimbursable XM Project Costs of the Federal investment in the XM Project, as
84 determined by Reclamation in addition to providing FWA's share of the XM Project Costs; and

85 o. The repayment of XM Project Costs will be structured consistent with P.L.
86 111.11, Section 9603; and

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

89 q. FWA and Reclamation have determined that the XM Project was initiated as an
90 OM&R action; and

91 r. FWA may collect the XM Project Costs for which FWA is responsible as
92 Reclamation's non-federal cost share partner under the Cost Share Agreement and this XM
93 Repayment Contract from the "Water Delivery Contractors" (hereafter "Friant Contractors") and
94 any other "Party Entitled to Utilize or Receive Other Water" identified in Article 1(e) and 1(l)
95 "Definitions" and Exhibit B of the Transfer Agreement titled, "List of Obligations to Convey and
96 Distribute Water in and From the Project Works," (which may be updated upon mutual written
97 agreement between the Parties without amending this Repayment Contract) as OM&R charges
98 pursuant to Article 12 of the Transfer Agreement.

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

101 **DEFINITIONS**

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

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

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

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

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

122 (e) “Extraordinary Maintenance Project Costs” or “XM Project Costs” shall
123 be all costs incurred by the United States in accordance with the terms of this Repayment
124 Contract directly related to the XM Project. Subject to the provisions of this Repayment

125 Contract, the term shall include, but is not necessarily limited to engineering and design costs,
126 construction costs, and project close out costs.

127 (f) "Fiscal Year" shall mean the period October 1 through September 30 of
128 the following year.

129 (g) "Interest During Construction" or "IDC" shall mean that amount of annual
130 or half-annual interest, identified in the then-current Exhibit B, Repayment Schedule attached
131 hereto, on the XM Project Costs expended between the first date of the quarter when funds were
132 first disbursed for construction of the XM Project and the date of Substantial Completion of the
133 XM Project.

134 (h) "Interest on Investment" or "IOI" shall mean the interest on the unpaid
135 balance of the Repayment Obligation.

136 (i) "Non-Reimbursable" shall mean exempted from repayment pursuant to
137 applicable legislation. For the purposes of the XM Project, all Non-Reimbursable funds and the
138 Non-Reimbursable benefits identified in the Feasibility Study are pursuant to applicable
139 legislation including, the San Joaquin River Restoration Settlement Act (Public Law 111-11,
140 Title X, Part III(a)(1)), the Reclamation Project Act of 1939, and the Federal Water Project
141 Recreation Act of 1965 (Public Law 89-72, as amended).

142 (j) "Reimbursable" shall mean requiring repayment to the United States pursuant
143 to applicable legislation. For the purposes of the XM Project, all Reimbursable funds and the
144 Reimbursable benefits identified in the Feasibility Study will be provided and recovered pursuant
145 to Title IX, Subtitle G of the Omnibus Public Land Management Act of 2009 (Act of March 30,
146 2009, Public Law 111-11; 43 U.S.C. §510), and under the terms of this Repayment Contract.

147 (k) "Repayment Obligation" shall mean the entire sum of funds expended by
148 the United States to complete the XM Project, plus accrued interest, as determined by the
149 Contracting Officer in accordance with Article 4 herein, minus any direct funding from Non-
150 Reimbursable sources and any funding for Non-Reimbursable benefits identified in the
151 Feasibility Study.

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

156 (m) "Year" shall mean the period January 1 through December 31, both dates
157 inclusive.

158 **TERM OF THE CONTRACT**

159 2. This Repayment Contract will become effective on the date first written above
160 and will remain in effect until FWA has fully repaid its Repayment Obligation to the United
161 States as will be described in the Exhibit B herein. Exhibit B will be updated and finalized upon
162 the Contracting Officer's issuance of the written notice of Substantial Completion. Said notice
163 will be provided consistent with Article 14, Notices.

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

165 3. (a) The XM Project will include, but is not limited to, the replacement, repair,
166 and capacity correction to the Middle Reach of the Friant-Kern Canal-between Mile-Post 88.1 –
167 121.5 as originally designed and constructed by the United States resulting in the reoperation of
168 the Friant Dam. The XM Work will include raising and widening portions of the existing Friant-
169 Kern Canal and replacing a portion of the Friant-Kern Canal by constructing a replacement

170 section directly east of the existing Friant-Kern Canal to provide a capacity of approximately
171 4,000 cubic feet per second (specific capacity varies by location), and any environmental
172 mitigation associated with the Friant-Kern Canal replacement work, in accordance with the
173 Feasibility Study.

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

176 (c) The Contracting Officer will provide FWA a draft XM Project Cost report
177 for the XM Project after the XM Work (construction) is deemed Substantially Complete by the
178 Contracting Officer. FWA will have 120 days from receipt of this draft to review and provide
179 any written comments to the Contracting Officer consistent with the Article 14, Notices. FWA
180 will have access to all of Reclamation's non-privileged documentation relating to the XM Project
181 Costs throughout the 120-day review period. Upon the Contracting Officer receiving FWA's
182 written comments and conducting subsequent consultation with FWA, if needed, the Contracting
183 Officer will issue the final XM Project Cost report and total Repayment Obligation in
184 replacement of the then-existing draft Exhibit B.

185 (d) FWA's Transfer Agreement including but not limited to Articles 1, 3, 5
186 and 12, establishes what constitutes the OM&R of the Friant-Kern Canal and how FWA may
187 identify, plan, finance, construct and collect funds for such work, including the XM Work that is
188 the subject of this Repayment Contract.

189 **FRIANT WATER AUTHORITY'S REPAYMENT OBLIGATION**

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

192 (b) The interest rate used for computing IDC on XM Project Costs in progress
193 and IOI on the unpaid balance of the Repayment Obligation in accordance with Section
194 9603(b)(3) of P.L. 111-11 is the Department of the Treasury rate as of the beginning of the Fiscal
195 Year in which the XM Work for each phase is commenced under this Repayment Contract, on
196 the basis of average market yields on outstanding marketable obligations of the United States
197 with the remaining periods of maturity comparable to the applicable reimbursement period of the
198 XM Work for each phase, adjusted to the nearest 1/8 of 1 percent on the unamortized balance of
199 any portion of the Repayment Obligation. Each phase will be subject to interest accrual which
200 will commence in the Fiscal Year in which the XM Work for that phase is commenced, as
201 determined by the Contracting Officer.

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

206 (d) As soon as practicable following the determination that the XM Work is
207 Substantially Complete, and after consultation with FWA, the Contracting Officer will provide
208 FWA with the final repayment schedule(s) requiring equal annual installments within the term
209 provided in Article 4(e) of this Repayment Contract, beginning with the first installment as
210 provided in Article 4(c) of this Repayment Contract, which schedule(s) will be incorporated into
211 this Repayment Contract as Exhibit B, Repayment Schedule, and may be updated by the Contracting
212 Officer without amendment of this Repayment Contract.

213 (e) The Repayment Obligation amounts associated with each phase will be
214 repaid within thirty (30) years.

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

217 **REIMBURSABILITY OF XM PROJECT COSTS**

218 5. In accordance with the Feasibility Study and the Cost Share Agreement, the XM
219 Project Costs associated with benefits other than fish and wildlife enhancements, flood control,
220 and statutorily mandated water supply (P.L. 111-11, Part III, Sections 10201 and 10203), will be
221 fully Reimbursable as specified by the terms of this Repayment Contract. Project benefits will
222 be determined for each phase of the XM Project. Prior to the commencement of construction for
223 each phase of the XM Project, Reclamation will consult with FWA regarding the amount of
224 funds to be provided under PL 111-11, Part III, Section 10201 and 10203 for that phase of the
225 XM Project. The final XM Project benefit calculation, along with the amount of Reimbursable
226 XM Project Costs, will be determined upon the final resolution of the XM Project Costs for the
227 XM Project upon written notification by the Contracting Officer of Substantial Completion. If
228 the XM Project is not fully implemented as represented in the Feasibility Study, the Parties
229 acknowledge and agree that the allocation of Non-Reimbursable funds will be reallocated as
230 Reimbursable, if appropriate, based on the final XM Work benefit calculation of the XM Project
231 as constructed. Funds reallocated from Non-Reimbursable to Reimbursable will be repaid with
232 interest as specified by the terms of this Repayment Contract. In accordance with Section 4007
233 of the WIIN Act, under no circumstance will Reclamation participate in the XM Project in an
234 amount greater than fifty percent (50%) of the XM Project Costs as constructed.

235

TITLE TO REMAIN IN THE UNITED STATES

236

6. (a) Title to the XM Project Work will be and will remain in the name of the

237

United States unless otherwise provided by Congress, notwithstanding the full payment to the

238

United States, of the Repayment Obligation sum under this Repayment Contract.

239

(b) The rights and obligations created hereby are supplementary to and do not

240

supersede or affect the rights and obligations under any prior contracts between the United States

241

and FWA except as provided in sub-Article 7 (b) of this Repayment Contract.

242

SEVERABILITY

243

7. (a) In the event that any one or more of the provisions contained herein shall,

244

for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity,

245

illegality, or unenforceability shall not affect any other provisions of this Repayment Contract,

246

instead, this Repayment Contract will be construed as if such invalid, illegal, or unenforceable

247

provisions had never been contained herein, unless the deletion of such provisions would result

248

in such a material change so as to cause the fundamental benefits afforded the Parties to this

249

Repayment Contract to become unavailable or materially altered.

250

b. In the event of any inconsistency between this Repayment Contract and

251

the Cost Share Agreement-Exhibit A, this Repayment Contract controls. Otherwise, the Parties

252

may remedy the differences pursuant to Article 8, Resolution of Disputes.

253

RESOLUTION OF DISPUTES

254

8. Should any dispute between the Parties arise concerning any provision of this

255

Repayment Contract, upon written request from either Party, the Area Manager, South-Central

256

California Area Office, will meet and confer with FWA in an attempt to resolve the dispute

257

within sixty (60) days of such request. If the dispute has not been resolved within the initial

258 sixty (60) days, the dispute will be referred to the Contracting Officer for a subsequent sixty (60)
259 days within which to resolve the dispute.

260 **COMPLIANCE WITH FEDERAL RECLAMATION LAWS**

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

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

271 **CHARGES FOR DELINQUENT PAYMENTS**

272 10. (a) FWA will be subject to interest, administrative, and penalty charges on
273 delinquent payments. If a payment is not received by the due date, FWA will pay an interest
274 charge on the delinquent payment for each day the payment is delinquent beyond the due date. If
275 a payment becomes sixty (60) days delinquent, FWA will pay, in addition to the interest charge,
276 an administrative charge to cover additional costs of billing and processing the delinquent
277 payment. If a payment is delinquent ninety (90) days or more, FWA will pay, in addition to the
278 interest and administrative charges, a penalty charge for each day the payment is delinquent
279 beyond the due date, based on the remaining balance of the payment due at the rate of six (6)
280 percent per year. FWA will also pay any fees incurred for debt collection services associated
281 with a delinquent payment.

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

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

289 **BOOKS, RECORDS, AND REPORTS**

290 11. FWA will establish and maintain accounts and other books and records pertaining
291 to administration of the terms and conditions of this Repayment Contract, including FWA's
292 financial transactions; water supply data; project operation, maintenance, and replacement logs;
293 project lands and rights-of-way use agreements; and other matters that the Contracting Officer
294 may require. Reports will be furnished to the Contracting Officer in such form and on such date

295 or dates as the Contracting Officer may require. Subject to applicable Federal law and
296 regulations, each Party to this Repayment Contract will have the right during officer hours to
297 examine and make copies of the other Party's books and records relating to matters covered by
298 this Repayment Contract.

299 **RULES, REGULATIONS, AND DETERMINATIONS**

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

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

309 **GENERAL OBLIGATION—BENEFITS CONDITIONED UPON PAYMENT**

310 13. (a) The obligation of FWA to pay the United States as provided in this
311 Repayment Contract is a general obligation of FWA notwithstanding the manner in which the
312 obligation may be distributed among Friant Contractors or other Parties Entitled to Utilize or
313 Receive Other Water and notwithstanding the default of individual Friant Contractors or any
314 Party Entitled to Utilize or Receive Other Water in their obligation to FWA.

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

317 (c) The Parties will follow the process in Article 12(d) Termination of Water
318 Deliveries of the Transfer Agreement for instances in which a Friant Contractor or a Party
319 Entitled to Utilize or Receive Other Water is delinquent with the payment of the XM Project
320 Costs allocated to them by FWA under this Repayment Contract.

321 (d) The availability of the remedy provided in Article 12(d) of the Transfer
322 Agreement to terminate deliveries of water when there is a payment delinquency, by a Friant
323 Contractor or other Party Entitled to Utilize or Receive Other Water, will not exempt FWA from
324 repayment to the United States under this Repayment Contract.

325

NOTICES

326

14. (a) Any notice, demand, or request authorized or required by this Repayment Contract will be deemed to have been given, on behalf of 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 Chief Operating Officer of 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.

327

328

329

330

331

332

333

(b) This Article 14 (a) herein will not preclude the effective service of such

334

notices by other mutually agreeable measures.

335

CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

336

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

337

338

339

340

341

OFFICIALS NOT TO BENEFIT

342

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

343

344

345

ASSIGNMENT LIMITED—SUCCESSORS AND ASSIGNS OBLIGATED

346

17. The provisions of this Repayment Contract will 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 will be valid until approved in writing by the other Party.

347

348

349

350

EQUAL EMPLOYMENT OPPORTUNITY

351

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

352

(a) FWA will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. 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

353

354

355

356

357

358

359 selection for training, including apprenticeship. FWA agrees to post in conspicuous places,
360 available to employees and applicants for employment, notices to be provided by the Contracting
361 Officer setting forth the provisions of this nondiscrimination clause.

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

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

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

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

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

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

396 (h) FWA will include the provisions of paragraphs (a) through (h) in every
397 subcontract or purchase order unless exempted by the rules, regulations, or orders of the
398 Secretary of Labor issued pursuant to Section 204 of said Executive Order No. 11246 of

399 September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor.
400 FWA will take such action with respect to any subcontract or purchase order as may be directed
401 by the Secretary of Labor as a means of enforcing such provisions, including sanctions for
402 noncompliance: *Provided, however*, that in the event FWA becomes involved in, or is threatened
403 with, litigation with a subcontractor or vendor as a result of such direction, FWA may request the
404 United States to enter into such litigation to protect the interests of the United States.

405 **COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS**

406 19. (a) FWA shall comply with Title VI of the Civil Rights Act of 1964 (Pub. L.
407 88-352; 42 U.S.C. § 2000d), the Rehabilitation Act of 1975 (Pub. L. 93-112, Title V, as
408 amended; 29 U.S.C. §791, et. Seq.), the Age Discrimination Act of 1975 (Pub. L. 94-135, Title
409 III; 42 U.S.C. § 6101, et seq.), Title III of the Americans with Disabilities Act of 1990 (Pub. L.
410 101-336; 42 U.S.C. § 12181, et seq.), and any other applicable civil rights laws, and with the
411 applicable implementing regulations and any guidelines imposed by the U.S. Department of the
412 Interior and/or Bureau of Reclamation.

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

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

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

430 **CERTIFICATION OF NONSEGREGATED FACILITIES**

431 20. FWA hereby certifies that it does not maintain or provide for its employees any
432 segregated facilities at any of its establishments and that it does not permit its employees to
433 perform their services at any location under its control where segregated facilities are
434 maintained. It certifies further that it will not maintain or provide for its employees any
435 segregated facilities at any of its establishments and that it will not permit its employees to
436 perform their services at any location under its control where segregated facilities are
437 maintained. FWA agrees that a breach of this certification is a violation of the Equal
438 Employment Opportunity clause in this Repayment Contract. As used in this certification, the

439 term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms,
440 restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas,
441 parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing
442 facilities provided for employees which are segregated by explicit directive or are in fact
443 segregated on the basis of race, creed, color, or national origin, because of habit, local custom,
444 disability, or otherwise. FWA further agrees that (except where it has obtained identical
445 certifications from proposed subcontractors for specific time periods) it will obtain identical
446 certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000
447 which are not exempt from the provisions of the Equal Employment Opportunity clause; that it
448 will retain such certifications in its files; and that it will forward the following notice to such
449 proposed subcontractors (except where the proposed subcontractors have submitted identical
450 certifications for specific time periods):

451 **NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR**
452 **CERTIFICATIONS OF NONSEGREGATED FACILITIES**

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

458 **MEDIUM FOR TRANSMITTING PAYMENTS**

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

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

467 **CONTRACT DRAFTING CONSIDERATIONS**


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

473 IN WITNESS WHEREOF, the Parties hereto have executed this Contract as of
474 the day and year first above written.

475 **APPROVED AS TO LEGAL FORM AND**
SUFFICIENCY - REVIEWED BY:

Digitally signed by
BRIAN HUGHES
Date: 2021.09.13
13:19:45 -07'00'
476 **OFFICE OF THE REGIONAL SOLICITOR**
477 **DEPARTMENT OF THE INTERIOR**

THE UNITED STATES OF AMERICA

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

480 FRIANT WATER AUTHORITY

481 (SEAL)

482 By: 
483 ~~Vice~~ Chair, Board of Directors

484 Attest:

485 
486 Secretary

EXHIBIT A

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

**COST SHARE AND CONTRIBUTED FUNDS AGREEMENT
BETWEEN
THE FRIANT WATER AUTHORITY
AND
THE UNITED STATES OF AMERICA
FOR
THE FRIANT-KERN CANAL MIDDLE REACH CAPACITY CORRECTION PROJECT**

This Cost Share and Contributed Funds Agreement (**Agreement**) is effective as of April 28, 2021 (**Effective Date**) and is between the UNITED STATES OF AMERICA, acting through the Bureau of Reclamation's (**Reclamation**), California Great Basin Region 10 (**Region**), pursuant to the Reclamation Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto including the, Contributed Funds Act of May 4, 1921 (43 Stat. 1404, 43 U.S.C. § 395), the Rivers and Harbors Act of 1937 (50 Stat. 844, 850), The San Joaquin River Restoration Settlement Act of 2009 (Public Law 111-11, Title X), and the Water Infrastructure and Improvement Act for the Nation of 2016 (Public Law 114-322); Extraordinary Maintenance (Public Law 111-11, Title IX) and the FRIANT WATER AUTHORITY (FWA), a California joint powers authority and the operating non-federal entity of the Friant-Kern Canal and associated works pursuant to that certain transferred works agreement (Contract No. 9-07-20-X0356-X, as amended) (**Transfer Agreement**). Reclamation and FWA are referred to individually as a **Party** and collectively as the **Parties**. This Agreement identifies the authority, roles, work, and responsibilities associated with funding, procurement, and implementation of the project to restore capacity to the "middle reach" of the Friant-Kern Canal (MP 88.1 – 121.5) (**FKC Middle Reach Capacity Correction Project or Project**).

I. Recitals

- A. Reclamation constructed the facilities and owns the lands and associated facilities of the Friant-Kern Canal (FKC) from Milepost 0 at Friant Dam to Milepost 151.5 at the Kern River.
- B. Since March 1, 1998, FWA and its predecessor in interest, the Friant Water Users Authority, have been responsible for the operations, maintenance, and replacement of the FKC pursuant to the Transfer Agreement.
- C. FWA and Reclamation recently completed negotiations for the renewal of the Transfer Agreement, which became effective on October 5, 2020, and extended the term of the Transfer Agreement for an additional 35 years.
- D. Nothing in this Agreement is intended to supersede or alter the roles and responsibilities of FWA and Reclamation under the Transfer Agreement.

- E. Reclamation and FWA entered into a Financial Assistance/ Cooperative Agreement on December 28, 2018 (Agreement No. R19AC00013, as amended) (FAA) for the development of feasibility studies, environmental, design work, land acquisition preparation work, and procurement preparation actions in advance of contract award for the FKC Middle Reach Capacity Correction Project as well as work on a separate project that provided immediate increase in capacity to the FKC.
- F. The FKC Middle Reach Capacity Correction Project was named in the 2018 (\$2.2 million), 2020 (\$2.35 million), and 2021 (\$206 million) appropriations bills under the Water Infrastructure and Improvements for the Nation (WIIN) Act for a total funding amount of \$210.55 million. All funding for the Project is subject to the cost share provisions under the WIIN Act.
- G. Public Law 111-11, Section 10201(a)(1) authorizes and directs the Secretary of the Interior to conduct feasibility studies in coordination with appropriate Federal, State, regional, and local authorities for the restoration of the designed and constructed capacity of the Friant-Kern Canal and, upon completion of and consistent with the studies, the Secretary is authorized to construct the improvements as described in Section 10201(a)(2).
- H. Reclamation and FWA have completed a feasibility study for the restoration of the middle reach of the FKC consistent with Reclamation's directives and standards CMP 09-02, Water and Related Resources Feasibility Studies.

NOW, THEREFORE, Reclamation and FWA agree as follows:

II. Background

A. General Information:

- i. Central Valley Project - Federal authorization of the of the Central Valley Project (CVP) was initiated under the Emergency Relief Act of 1935 and subsequent approvals, authorization, and appropriations were made through the Rivers and Harbors Act of 1937 and 1940. The two central watersheds of the CVP are the Sacramento River and San Joaquin River drainages. Pursuant to a contract commonly known as the "Exchange Contract" water from the Sacramento River is used to satisfy demands of water users who historically utilized the San Joaquin River, and in exchange, water from the San Joaquin River is delivered to water users in the eastern side of the Tulare Basin providing a reliable surface water supply to offset the need for groundwater pumping in the basin which was causing land subsidence.

- ii. The Friant-Unit of the CVP impounds waters of the San Joaquin River behind Friant Dam in Millerton Lake. Waters behind Friant Dam are diverted into two major conveyance features, the Madera Canal (36 miles long) and Friant-Kern Canal (152 miles long). On average, there are 1.2 million-acre feet of water generated annually by the project servicing over 1 million acres of farmland.

B. Authority:

- i. Settlement Act (Public Law 111-11, Title X) – Section 10201 directs and authorizes the Secretary of the Interior (Secretary) 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 Project under the Settlement Act are non-reimbursable.
 1. Section 10203(a) –Provides for \$35 million for the study and construction of facilities to restore the capacity of the Friant-Kern and Madera Canals. In 2010, the Friant Division Long-Term contractors (Friant Contractors) determined that \$25 million would be used for the FKC and \$10 million would be used for the Madera Canal. Additionally, funds were used from this account to study capacity correction of the “upper reach” of the FKC (MP 29 – 88). In 2018 when Project planning was initiated, \$23.9 million was available under this section of the Settlement Act and is being applied by Reclamation towards the Federal cost share obligation under this Agreement.
 2. Section 10203(c) – Establishes that appropriations are not to exceed \$50 million (2008 price levels) for implementation of any part of the “Friant Improvements” described in Public Law 111-11, Title X, Part III including the restoration of the designed and constructed capacity of the FKC.
- ii. Water Infrastructure and Improvements for the Nation (WIIN) Act – Section 4007 of the WIIN Act 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 may participate in the Project in an amount no greater than 50% of the total cost of the

Federally-owned water storage project inclusive of other Federal funding. In order to commence construction of the Project, the Secretary 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 capital costs (which is the purpose of this Agreement), and c) determine that in return for the Federal cost-share investment at least a proportionate share of the Project benefits are Federal benefits.

1. Reclamation has determined that the Project has successfully initiated “construction” as defined in Public Law 114-322, Section 4011(f)(2), and as such, is currently a project in construction prior to December 21, 2021 as required by the WIIN Act.
- iii. FWA Transfer Agreement – Article 1 of the Transfer Agreement defines what constitutes the operation, maintenance and replacement (OM&R) of the transferred “Project Works,” including the FKC; Articles 3 and 5 describe FWA’s OM&R obligations and authority, including how Reclamation and FWA may identify improvements, modifications, replacements or repairs of any nature to the Project Works, including “Capital Improvements” and the associated accomplishment, including financing, of such work; and Article 12 describes the authority, including the adoption of a cost recovery methodology, for FWA to charge and collect for OM&R activities, including Capital Improvements, as such terms are defined in the Transfer Agreement.
1. Reclamation has determined that the Project was initiated as an OM&R action and that the Project Costs (defined in Article IV.B of this Agreement) for which FWA is responsible for as Reclamation’s non-federal cost share partner under this Agreement are authorized to be collected from Friant Contractors as OM&R charges pursuant to Article 12 of the Transfer Agreement.
- iv. Extraordinary Maintenance (Public Law 111-11, Title IX) – Consistent with Section 9603, the Secretary or the operating non-federal entity of a transferred works (i.e., FWA) may carry out any extraordinary operation and maintenance work on a project facility that the Secretary determines to be reasonably required to preserve the structural safety of the project facility consistent with a transfer agreement. For transferred works, the Secretary is authorized to advance the costs incurred by the transferred works operating entity in conducting extraordinary operation and maintenance work and

negotiate appropriate repayment contracts of up to 50 years with project beneficiaries providing for the return of reimbursable costs, with interest; provided, however, that no contract entered into pursuant to this subtitle 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)).

1. Reclamation has determined that the Project is a construction project that meets the definition of “extraordinary operation and maintenance work” on a transferred work as defined by Title IX, Section 9601 of Public Law 111-11.
- v. **Environmental Compliance** – Reclamation and FWA completed environmental compliance for the Project in a joint Environmental Impact Statement (**National Environmental Policy Act – NEPA**) and Environmental Impact Report (**California Environmental Quality Act – CEQA**) collectively referred to as the **EIS/R** with the execution of a Record of Decision by Reclamation for NEPA compliance on November 4, 2020, and adoption by the Friant Water Authority Board of Directors (**Board of Directors**) of Resolution No. 2020-3 on October 22, 2020 certifying CEQA compliance, and adopting findings and a Statement of Overriding Consideration, which documents set forth the decision by Reclamation and FWA to select the canal enlargement and realignment alternative and proceed to final design and construction of the Project.

C. **Planning Phase:**

- i. **Financial Assistance Agreement** - Reclamation and FWA entered into a Financial Assistance Agreement (R19AC00013) (FAA) on December 28, 2018 and subsequently modified the agreement on September 18, 2020. The FAA authorized funding and describes the cost share responsibilities for the planning, design, and environmental compliance and permitting of the Project. The FAA included \$1,981,971 of WIIN Act appropriations, \$5,438,731 in Restoration Fund funding from the San Joaquin River Restoration Program, with a modification of \$10,299,693 from 2020 SJRRP Part III appropriations. The FAA also assumed FWA would match the WIIN funding to a total of \$1,984,972, for a total FAA value of \$19,708,368.
- ii. **Feasibility Report**– Reclamation, in coordination with FWA, prepared a feasibility report entitled “*Friant – Kern Canal Middle Reach Capacity*”

Correction Feasibility Report” completed July 2, 2020 (**Feasibility Report**). The Feasibility Report was prepared in compliance with Reclamation’s Directives and Standards at CMP 09-02, which is used to implement the Principles, Requirements and Guidelines for Water and Land Related Resources Implementation Studies and Executive Order 12322, Water Resources Projects. The Feasibility Report identified a cost to benefit ratio of the Project of 1.86 to 1. The Project was deemed feasible by the Secretary on July 3, 2020, consistent with the recommended plan outlined in the Feasibility Report and transmitted to Congress the same day.

- iii. **Design and Engineering** –Project design and engineering has been conducted by FWA’s contractor, Stantec, who provided standard design milestones of 30, 60, and 90 percent review to Reclamation’s Technical Service Center lead design reviewer for water conveyance. Final design and specifications will be prepared under the terms of the FAA and this Agreement. Draft 100% designs for the Project were submitted to Reclamation on October 22, 2020. FWA and Reclamation will continue to coordinate on the final 100% designs and the as-built drawings for the Project.

III. Project Construction Phase

- A. **Solicitation:** Reclamation and FWA will work together to achieve final design packages that will be used for bid solicitations. The designs, including the phasing and service life sequencing, have been and will continue to be reviewed by the Denver Technical Service Center. Reclamation and FWA agree that the designs will achieve the Project objectives to restore the designed and constructed capacity of the FKC in the middle reach.
 - i. Based on the availability of funding and other potential factors, final design documents will be transitioned into contract specifications and solicitation packages that divide the Project into linear segments.
 - ii. The first segments for a solicitation package will include Segments D, E, and F. (See Exhibit A for details regarding the proposed Project construction segments.)
 - iii. Segments D, E and F are collectively referred to as **Phase 1** of the Project. Subsequent Project phases will include additional segments of the FKC as funding is available.

- B. **Contracting:** Reclamation will award the construction contracts using the best value procurement method consistent with the Federal Acquisition Regulations (FAR). Other supporting contracts for various Project elements (such as utility relocations, relocation of private landowner features, etc.) may be accomplished by Reclamation, FWA, or by third parties approved by Reclamation and FWA.
- C. **Construction/Project Management:** The **Construction Management/Project Management Plan** is attached to this Agreement as **Exhibit B** and outlines the roles and responsibilities for the construction and project management throughout the construction phase including the establishment of a **Project Management Team**. **Exhibit B** may be amended and adopted upon mutual agreement in writing of the Parties without special authorization.

IV. Funding, Budget and Expenditures

Cost estimates were identified in the Feasibility Report with the recommended project having an estimated cost of \$500 million. The cost estimates included contingency costs for construction, design, and other non-contract costs. Overall funding is expected to include many sources including Federal, State, local, and Friant Contractor funding.

- A. **Cost Sharing – WIIN Act, section 4007:** As described in **Article II(B)(ii)** of this Agreement, Reclamation is authorized to pay up to 50% of the Project Costs (as defined below). Federal funding for the Project is subject to funding availability and appropriations. FWA agrees to contribute the remaining funding through a variety of funding sources including but not limited to: (1) FWA OM&R charges, (2) State of California grants, (3) local groundwater sustainability agencies (GSAs), (4) Federal, State, local, and private loans, (5) potential voluntary Friant Contractor contributions or loans, and (6) in-kind services.
- B. **Eligible Project Costs:** Any eligible costs associated with the Project (collectively, **Project Costs**) are subject to the terms of this Agreement and will be mutually shared in accordance with this Agreement subject to the below descriptions:
 - i. **Project Phasing:** As described in **Article III(A)(ii)** above, the Project will be completed in phases with Phase 1 of the Project including Segments D, E, and F as described in **Exhibit A**. At the completion of each phase, the Parties agree that each Party will have expended up to 50% of its share of the Project Costs to fulfill its obligations to share costs as required in Section

4007 of the WIIN Act prior to proceeding with subsequent phases of the Project.

- ii. The Parties agree that they may amend Exhibit A to include descriptions of subsequent phases of the Project without additional review or amendments to this Agreement so long as the total Federal share of the Project Costs do not exceed \$250 million or 50% of the total Project Costs, whichever is less.
- iii. Past Project Costs: The Parties have reviewed the Project Costs incurred by FWA and Reclamation prior to January 1, 2021. The Parties acknowledge and agree that FWA's costs total \$2,886,841.37 and Reclamation's costs total \$20,469,482.27, which amounts will be credited to each Party's cost share obligation under this Agreement for Phase 1 of the Project.
- iv. Real Estate Acquisition: As described in the Stewardship and Oversight Agreement on Land Acquisition and Program Oversight between Reclamation and FWA (effective December 19, 2019), both Parties can pay for pre-acquisition activities including appraisals, title review, offer letters, and other pre-acquisition procedures to comply with the Uniform Relocation Act, as well as pay for all costs associated with the acquisition of necessary property, including easements and licenses necessary for the Project (collectively, **Right-of-Way or ROW**).
- v. Relocations: The research, investigation, documentation, and relocation of utilities and other features necessary to clear the Right-of-Way for Project construction work may be paid for by either Party.
- vi. Design and Design Support: FWA has provided design and design support through the FAA with Reclamation. The contract with Stantec for such design work was funded under that agreement. Future design support during construction may be funded by either party consistent with this Agreement. Design support during construction will be necessary to ensure the designer of record is involved during the execution of the construction and accommodate any contract modifications related to the construction contract. Reclamation will hold the contract for the designer of record during construction.
- vii. Construction Costs: Reclamation is serving as the procurement entity for the primary construction contracts and will also manage the primary construction contracts. All funds for the primary construction contracts will

be either funded directly by Reclamation or through funds transferred to Reclamation by FWA consistent with Article IV of this Agreement. FWA may enter into secondary construction contracts with Reclamation's consent for which either Party may provide funding consistent with this Agreement.

- viii. **Administrative Costs:** Reclamation will reserve sufficient funding from Federal appropriations to cover its administrative and management costs associated with the construction phase of the Project. This amount will be considered part of the overall Federal contribution. A budget for the salaries, overhead, costs and expenses of Reclamation personnel involved in the contract administration and construction management of the Project will be established by Reclamation and approved in advance by the Project Management Team. FWA will reserve sufficient funding to pay for its administrative costs for the non-Federal share of the Project. These costs will be considered contributions to the non-Federal share of the Project. Administrative costs include, unless otherwise defined by contract or this Agreement: project management, construction management, accounting and budget management, legal support and review, travel, general meetings related to the Project, and other support services and activities.
- ix. **Bid and Contract Preparation:** The Project will require phasing and will require additional contract preparation not originally envisioned in the FAA. Each Party will reserve funds to pay for its share of the bid solicitations and contract preparations unless otherwise defined in the FAA or subsequent agreement, and only to the amounts agreed to or as amended in those agreements.
- x. **Environmental Mitigation and Compliance:** Either Party may fund environmental mitigation and compliance needs consistent with this Agreement. FWA will manage a contract for technical assistance and support regarding environmental mitigation and compliance. Each Party, however, will be responsible for the applicable administration of environmental mitigation and compliance to ensure consistency with either State (CEQA) (i.e., FWA) or Federal (NEPA) (i.e., Reclamation) laws and regulations.
- xi. **Cultural:** Either Party may fund cultural studies, investigations, and mitigation needs consistent with this Agreement. Reclamation will manage the contract for cultural resources but may request assistance on a case by case basis from FWA's environmental contractor depending on availability

and timing needed to conduct necessary field investigations. Reclamation will be the sole responsible party for administering the Programmatic Agreement with the California State Historic Preservation Officer executed on October 9, 2020.

- xii. **Permitting:** Any permitting actions still needing to be completed for construction of the Project and not covered under the FAA may be funded by either Party consistent with this Agreement. FWA will be responsible for complying with permits that are issued and administered by State agencies including California Department of Fish and Wildlife (CDFW) section 1600 streambed alteration permits, CDFW incidental take permits, and Regional Air Quality Control Board agreements. Reclamation will be responsible for all Federal permits or permits that benefit from Federal expertise including but not limited to, United States Army Corp of Engineers Clean Water Act section 404 permits and California Water Quality Control Board section 401 permits. Each Party may assist the other in data collection and support in obtaining any necessary or supporting permit. All construction permits necessary to be obtained by a construction contractor prior to work commencing on physical construction of the Project will be obtained by the construction contractor consistent with the construction contract and in consultation with Reclamation.

- C. **Reimbursable and Non-Reimbursable Federal Funds:** The Federal authorization for this Project includes multiple sources of funding. Some of these funding sources have been identified as being “Non-Reimbursable” (not subject to repayment by the non-Federal beneficiaries [i.e. Friant Contractors]) and “Reimbursable” (subject to repayment by the non-Federal beneficiaries of the Project [i.e. Friant Contractors]). As described in the Feasibility Report outlining the Federal benefits for the Project, Non-Reimbursable benefits were estimated to be \$86,126,800 and the Reimbursable benefits were estimated to be \$163,873,200 for a total Federal investment of \$250 million (50% of the total estimated Project cost). The Parties acknowledge that these figures are subject to change as the Project is implemented, as the benefits (Reimbursable and Non-Reimbursable) are actually realized, as dictated by Congress, or as a result of other actions or changes to the Project or Project funding. The Project benefits will be determined for each phase of the Project. The final Project benefit calculation along with the amount Reimbursable will be determined upon final resolution of the costs for the Project. In general, Non-Reimbursable funds will be used for Project Costs before Reimbursable funds. If funding necessary to construct the full Project does not materialize, whether from Federal or non-

Federal sources, the Parties acknowledge and agree that certain Non-Reimbursable funds may need to be reallocated as Reimbursable funds based on the final benefit calculation of the Project as constructed. Interest charges on Reimbursable Federal funds, if any, will be determined in accordance with applicable Federal Reclamation law and will be set forth in the Repayment Contract to be executed by the Parties prior to award of the construction contract for each phase of the Project.

- D. **Non-Federal Funds:** Non-Federal funds will come from a variety of sources including, but not limited to, GSA funds, FWA OM&R funds, non-Federal loans, contributions or investment agreements with Friant Contractors, State and local government funds, bonds or other loans, and in-kind services. The non-Federal cost share of the Project is anticipated to be \$250 million, which includes funds already spent by FWA for the planning and design phase of the Project.
- E. **Payment and Advanced Payment:**
- i. Prior to the initiation of construction for any phase of the Project, the Parties will prepare and agree upon a “Spending Plan.” The Spending Plan will include a schedule outlining, among other things, the anticipated upfront timing and amounts of applicable Federal funding, FWA funding, and any funding anticipated from other sources for the Project. The initial Spending Plan for the Phase 1 Project is attached as Exhibit C. The Spending Plan may be amended as necessary upon mutual agreement in writing of the Parties without further special authorization.
 1. Upfront funding from FWA will be made in quarterly payments as shown in the Spending Plan.
 2. Before any FWA delinquency for failure to make a quarterly payment as required by the Spending Plan, FWA agrees to the following conditions:
 - a. IF the Eastern Tule Groundwater Sustainability Agency (ETGSA) is unable to make a lump-sum payment to FWA by December 31, 2022 as provided in the parties’ settlement agreement, or if the continuing quarterly payments from ETGSA under the settlement agreement when combined with Friant Contractor OM&R payments and any other non-federal funding are insufficient to meet FWA’s obligations

under the Spending Plan, FWA will immediately advise Reclamation in writing of this issue and subsequently any potential inability to make any portion of an upcoming quarterly payment as soon as possible.

- b. After notifying Reclamation of any potential shortfall or other financing issue, FWA will first independently seek alternative sources of financing for meeting its obligations under the Spending Plan. This could include but is not limited to extra payments, contributions, or negotiated financing from FWA districts, non-federal sources, or another entity as decided solely by FWA. The purpose of this initial FWA outreach is to limit federal involvement in the financing plans of FWA.
- c. However, if FWA is unable to make payments in accordance with the Spending Plan for the Project and cannot independently find a financing partner to alleviate that burden (as described in b. above), Reclamation may step in, at its discretion, to help secure a financing partner for FWA. In this situation upon FWA's determination that it has not succeeded in independently financing its proportionate share of the Project and before any FWA payment is deemed late or overdue, FWA will notify Reclamation that third-party contributor(s) will need to be identified by Reclamation and an appropriate financing agreement approved and determined binding by Reclamation in order to meet FWA's financial obligations under this Agreement.
- d. If Reclamation helps secure a third-party contributor for FWA, Reclamation will need to approve any agreement made between FWA and said third-party contributor. FWA must agree to and include in any contract with a third-party contributor the following provisions:
 - i. FWA will accept the funds provided by the third-party contributor to cover FWA's financial obligations required to be credited to the Contributed Funds Account under this Agreement;

- ii. FWA will repay the third-party contributor within 5 years from the date that FWA receives the payment of funds from the third-party contributor. Repayment shall include principal and interest, which interest will accrue annually at a rate equal to the rate the contributor has secured in connection with any financing of the funds plus 4 percent;
 - iii. Any funds FWA receives from a groundwater sustainability agency GSA will first be provided to the third-party contributor(s) until such loan is repaid in full;
 - iv. If necessary, to repay the third-party contributor within five years as stated above, FWA will take further actions and implement additional measures to raise funds sufficient to insure timely repayment to the contributor; and
 - v. Any and all new or additional conveyance fees enacted to pay for Project Costs will first be used by FWA to repay the third-party contributor until such loan is repaid in full.
- e. If the processes under subparagraph (d) are triggered, Reclamation agrees that the sources of funding FWA pursues to repay any third-party contributor will be at the sole discretion of FWA, provided it satisfies the requirements of subparagraph (d) above.
3. If FWA fails to make any quarterly payment required under the Spending Plan, following notice from Reclamation, the Parties will meet and confer and agree upon revisions to the Spending Plan prior to the due date for FWA's next quarterly payment.
- ii. Reclamation will establish a **"Contributed Funds Account"** or **"Account"** to deposit all funds contributed by FWA and Reclamation for Project Costs.
 - iii. Reclamation will assign a federal accountant to monitor the Account and assure that Project Costs are promptly paid in accordance with the Spending Plan and approved Project budgets and invoices.

- iv. During all construction phases of the Project, Reclamation will prepare and submit to FWA for payment a quarterly **“Request for Payment”** in accordance with the Spending Plan to reflect the construction contractor’s anticipated billing schedule.
- v. Reclamation and FWA will each prepare and submit to the other Party a monthly report of all Project expenditures incurred by such Party during each month. The reports will be due not later than 30 days following the end of the previous month.
- vi. Under Reclamation Directive and Standard FIN 10-01, the Regional Director or his or her delegee is authorized to issue a **“Miscellaneous Obligation”** to fund federal actions and responsibilities or those actions allowable in FIN 10-01 that would otherwise be actions reserved to FWA.
- vii. As set forth in the Spending Plan, the Parties acknowledge and agree that either Reclamation or FWA may advance more than 50% of the applicable Project Costs for such phase at any one time.

F. **Contributed Funds:**

- i. All contributed funds from FWA must be delivered for deposit into the Account in the amounts and times set forth in the Spending Plan.
- ii. All contributed funds provided by FWA will be utilized by Reclamation to pay for costs of the Project and will be credited towards FWA’s non-Federal share.
- iii. Any contributed funds from FWA in excess of the amount necessary for the non-Federal share of the applicable phase of the Project will, at FWA’s option, be refunded to FWA at the completion of such phase of the Project or may be retained in the Account by Reclamation for expenditure on subsequent Project phases. If a refund is requested by FWA, Reclamation will endeavor to make such refund within 90 days from the date a determination is made that funds are available to be refunded and are requested, or as otherwise required by Federal law or regulation.
- iv. Upon request, Reclamation will provide FWA with an accounting of contributed funds expended toward the Project, or any other agreed upon

activity funded in whole or part by FWA's contributions pursuant to this Agreement.

G. Insufficient Funds:

i. Insufficient Federal Funds.

1. In the event of a lapse in, or elimination of, Federal appropriations either on a temporary or permanent basis, FWA may elect to advance funding through its reimbursable account with Reclamation to fund the Project and Reclamation must reimburse its share of the Project Costs if and when Congress makes appropriations available for the Project. Should Congress fail to make appropriations for the Project available, Reclamation is not responsible for repayment to FWA for any portion advanced to Reclamation for the Project.

a. If funds are not made available by Congress and FWA is unable or unwilling to cover the remaining costs of the Project, Reclamation will use remaining funds to closeout open contracts and bring associated activities to a close in a manner that limits potential for stranded assets.

2. Reclamation will consider additional funding sources to complete the Project in a manner that does not leave a stranded asset and make funds available consistent with its share of the Project Costs if allowed by law and subject to availability of funds.

3. If no Federal funds are available either by failure to appropriate funds or identify funds, Reclamation and FWA will not be responsible for completing the Project to the extent described in the Feasibility Report and the provisions to reallocate Non-Reimbursable funds as described in Article IV(C) of this Agreement will not apply.

ii. Insufficient Non-Federal Funds (General Obligation – Benefits Continued Upon Payment).

1. The obligation to pay the non-Federal cost share as provided in the Spending Plan identified in Article IV(E)(i) of this Agreement is an obligation of FWA notwithstanding the manner in which the

obligation may be distributed among the applicable Friant Contractors.

2. Reclamation and FWA acknowledge and agree that FWA may allocate any portion of the non-Federal cost share obligation under this Agreement among the applicable Friant Contractors as an OM&R cost under the Transfer Agreement.
3. Reclamation and FWA further acknowledge and agree that any delinquencies in payment of any such OM&R costs by a Friant Contractor will be subject to all remedies available to FWA, including those under Article 12 of the Transfer Agreement.
4. If FWA fails to provide the non-Federal share of the Project Costs, Reclamation will evaluate the Reimbursable and Non-Reimbursable amounts as provided for in Article IV(C) of this Agreement or take other actions as allowable by law to recover costs

V. **OM&R of Friant-Kern Canal:** The Parties acknowledge and agree that upon the determination that a Project phase is substantially complete by the Regional Director, the resulting repaired facilities and additional right-of-way that constitute “Project Works” (as defined in the Transfer Agreement) for which FWA will assume the care and OM&R responsibility for under the Transfer Agreement will be added, as necessary, to the list of Project Works set forth as Exhibit A of the Transfer Agreement.

VI. **General Provisions**

- A. Drafting Considerations: This Agreement has been negotiated and reviewed by the Parties, each of whom is sophisticated in the matters to which this Agreement pertains, and neither Party will be considered to have drafted the Agreement or any of the articles.
- B. Assignment Limited – Successors and Assigns Obligated: The provisions of this Agreement will apply to and bind the successors and assigns of the Parties, but no assignment to transfer of this Agreement or any part or interest therein by FWA shall be valid until approved by the United States. Such approval shall not be withheld unreasonably.
- C. Rules, Regulations, and Determinations: The Regional Director shall have the right to make determinations necessary to administer this Agreement that are

consistent with the expressed and implied provisions of this Agreement, 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.

- D. Term of Agreement: This Agreement shall be effective on the date it has been signed by both Parties, and shall terminate on the project completion date as announced in writing by the Contracting Officer.
- E. Amendment; Termination: This Agreement may be modified, amended or terminated upon mutual agreement of the Parties in writing, All duties and obligations of the Parties under this Agreement will cease upon termination except as to any provisions that expressly survive the termination of the Agreement.
- F. Notice: The Parties designate the following persons to act as their authorized representatives in matters and decisions pertaining to the timely performance of this Agreement. Any notice, demand, or request authorized by this Agreement will be deemed to have been given, when mailed, postage prepaid, or personally delivered to the respective authorized representatives of the Parties. Changes in designated representatives may be made by notice to the other Party in accordance with this Article VI(F).

Reclamation:

Ernest Conant
Regional Director
CGB 1400
2800 Cottage Way
Sacramento, CA 95825
(916) 978-5000
econant@usbr.gov

FWA:

Jason R. Phillips
Chief Executive Officer
854 N Harvard Ave.
Lindsay, CA 93247
(559) 562-6305
jphillips@friantwater.org

- G. Contingent on Appropriation: The expenditure or advance of any money or the performance of any obligation of the United States under this Agreement is

contingent upon appropriation or allotment of funds. Absence of appropriation or allotment of funds will not relieve FWA from any obligations under this Agreement. No liability will accrue to the United States in case funds are not appropriated or allotted.

- H. **No Officials to Benefit:** No Member of, or Delegate to, the Congress, Resident Commissioner, or official of FWA may benefit from this Agreement other than as a water user or landowner in the same manner as other water users or landowners.
- I. **Incorporation of Transfer Agreement Provisions.** The Parties acknowledge and agree that the following Articles of the Transfer Agreement are applicable to this Agreement and are incorporated into this Agreement by reference: Articles 24 (Compliance with Civil Rights Laws and Regulations), 25 (Equal Opportunity Employment), and 29 (Changes in Organization).
- J. **Non-Waiver:** The Parties acknowledge and agree that by FWA entering into this Agreement, that approval does not cause any Friant Contractor to waive or release any rights or obligations under their applicable Water Delivery Contract (as such term is defined in the Transfer Agreement) or with respect to the implementation of the Project. The Parties acknowledge that each Friant Contractor expressly preserves its right to make any and all claims it may have now or in the future pursuant to such Friant Contractor's Water Delivery Contract, including but not limited to, the obligation to make payments with respect to the Project under their respective Water Delivery Contract beyond their respective share of Project OM&R costs budgeted and approved by the FWA Board.
- K. **Books, Records, and Reports:** The FWA shall establish and maintain accounts and other books and records pertaining to administration of the terms and conditions of this contract, including FWA's financial transactions; water supply data; project operation, maintenance, and replacement logs; project land and rights-of-way use agreements; the water users' land-use (crop census), land-ownership, land-leasing, and water-use data; 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 laws and regulations, each party to this Agreement shall have the right during office hours to examine and make copies of the other party's books and records relating to matters covered by this contract.

L. **Certification of Nonsegregated Facilities:** 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. FWA agrees that a breach of this certification is a violation of the Equal Employment Opportunity clause in this 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. 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):

- i. **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 subcontractor 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.

M. **Medium for Transmitting Payments**

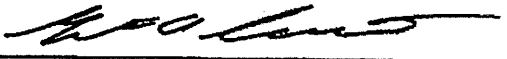
- i. All payments from FWA to the United States under this Agreement shall be by the medium requested by the United States on or before the date payment is due. The required method of payment may include checks, wire transfers, or other types of payment specified by the United States

- ii. Upon execution of the Agreement, 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.


[Signatures on the following page.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first above written.

THE UNITED STATES OF AMERICA

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

FRIANT WATER AUTHORITY

By: 
Cliff Loeffler, Chair, Board of Directors

Attest:


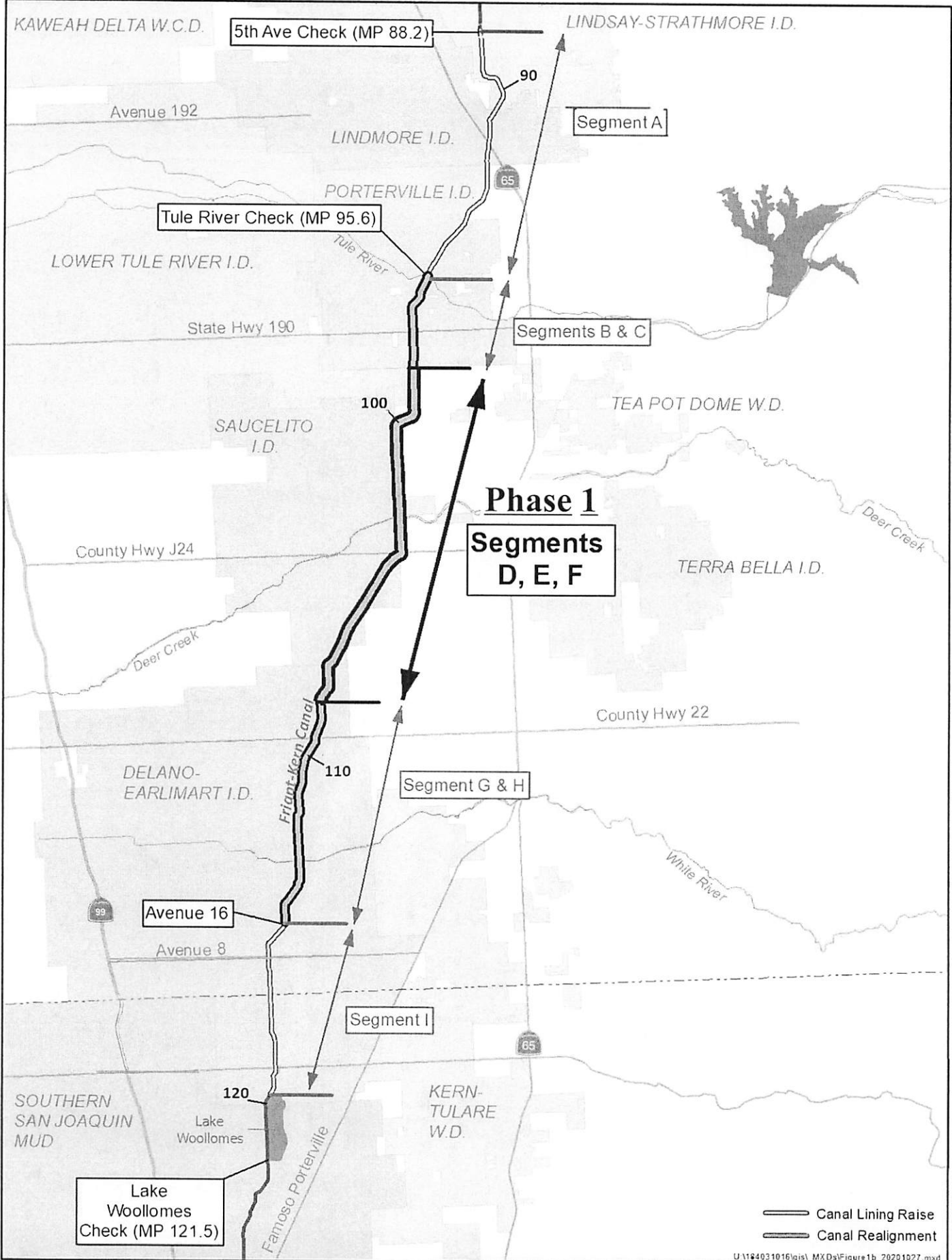

Jim Erickson, Secretary

EXHIBIT A

Phase I Solicitation and Canal Segments



Canal Lining Raise
 Canal Realignment

EXHIBIT B

Construction Management Plan



— BUREAU OF —
RECLAMATION



CONSTRUCTION MANAGEMENT PLAN
Friant-Kern Canal Middle Reach Capacity Correction Project

TABLE OF CONTENTS

1.0 INTRODUCTION

- 1.1. Purpose
- 1.2. Abbreviations
- 1.3. Project Overview and Scope
- 1.4. Features

2.0 PRE-CONSTRUCTION ACTIVITIES

- 2.1 Pre-Construction Planning
 - 2.1.1. Designer of Record
 - 2.1.2. Environmental Commitments/Mitigation Measures
 - 2.1.3. Construction and Access Agreement Requirements
 - 2.1.4. Property Owners Notifications and Letters
 - 2.1.5. Public Involvement
 - 2.1.6. Utility Relocation Coordination
- 2.2. Procurement Phase
 - 2.2.1 Pre-Proposal Conference or Bidder Site Visit
 - 2.2.2. Offeror Inquiries and Amendments
 - 2.2.3. Amendments
 - 2.2.4. Proposal Reviews or Bid Opening and Award of Construction Contracts

3.0 CONSTRUCTION ACTIVITIES

- 3.1 Organization and Responsibilities
 - 3.1.1. Executive Management Group
 - 3.1.2 Project Management Group
 - 3.1.3. Construction Management Group
 - 3.1.4 Technical Support and Stakeholders Coordination
- 3.2 Construction Authorities
- 3.3 Safety

3.4 Construction Project Meetings

3.4.1 Post Award Conference

3.4.2 Weekly Construction Coordination Meetings

3.4.3 Weekly Safety Meetings

3.4.4 Joint Policy Safety Meetings

3.5 Construction Phase Communication

3.5.1 Bi-Weekly Inspection Reports

3.5.2 Monthly Reports

3.5.3 Formal Correspondence

3.6 Quality Assurance

3.6.1 Performance

3.6.2 QA Documentation

3.7 Construction Contract Changes

3.8 Dispute Resolution and Claims Avoidance

3.9 Environmental and Cultural Resources Compliance

3.10 Construction Safety and Site Visits

4.0 POST CONSTRUCTION ACTIVITIES

4.1 Technical Report of Construction

4.2 As-Built Drawings

4.3 Operation and Maintenance Manuals

4.4 Designer's Operating Criteria

4.5 Transfer of Operation and Maintenance Responsibilities

4.6 Standing Operating Procedures

5.0 APPENDIXES

Appendix A – Organizational Chart

Appendix B – Issue Escalation Plan

1.0 INTRODUCTION

1.1 Purpose

This Construction Management Plan (CMP) has been developed by the U.S. Bureau of RECLAMATION (RECLAMATION) and the Friant Water Authority (FWA) (hereinafter collectively referred to as Team) to provide for the management of the Friant-Kern Middle Reach Capacity Correction Project (Project) during construction.

Reclamation and FWA have developed an integrated organizational team for execution of the construction work. This involves design support during procurement and construction along with staff to supplement Reclamation's construction management staff.

This CMP will provide a common understanding among the Team on managing and monitoring day-to-day activities associated with the construction of the Project including quality assurance and cost and schedule containment. It will also provide for increased coordination between the Team, thereby minimizing potential conflicts between construction contractors and maximizing safety.

This CMP describes or references the principal procedures, methods, and activities necessary for the Team to successfully implement the construction associated with the Project. It addresses the authorities and responsibilities of the team members.

This CMP is intended to be a living document and contains the best estimate of activities required to meet the scope of the Project known at the time of signature. Should any significant project scope changes result in the future, associated changes to this CMP will be required.

1.2 Abbreviations

For the purposes of this CMP, the following abbreviations are defined as follows:

Caltrans	State of California Department of Transportation
CDMS	Contract Document Management System
CMG	Construction Management Group
CMP	Construction Management Plan
CO	Contracting Officer
COO	Chief Operation Officer
COR	RECLAMATION Contracting Officer's Representative
DOR	Designer of Record - Stantec Consulting, Inc.
EMG	Executive Management Group
FAR	Federal Acquisition Regulation
FKC	Friant-Kern Canal
FWA	Friant Water Authority
FE	RECLAMATION Field Engineer

GAR	Government Approved Reviewer
O&M	Operations & Maintenance
OE	RECLAMATION Office Engineer
PM	Project Manager
PMG	Project Management Group
QA	Quality Assurance
QC	Quality Control
RFC	Request for Change
RFI	Request for Information
RFP	Request for Proposal
ROW	Right of Way
RSHS	RECLAMATION Safety and Health Standards
SOP	Standing Operating Procedures
Stantec	Stantec Consulting, Inc., the Designer or Record (DOR)
TPEC	Technical Proposal Evaluation Committee
TSC	RECLAMATION Technical Service Center in Denver, CO
WCO	RECLAMATION Willows Construction Office
WCOM	Willows Construction Office Manager

1.3 Project Overview and Scope

Since construction, the Friant-Kern Canal (FKC) conveyance capacity has deteriorated due to land subsidence, vegetation growth, and localized seepage through its embankments. The Middle Reach of the FKC (approximately from milepost [MP] 88 to MP 121.5) has experienced a substantial reduction in conveyance capacity due to continuing subsidence, which has adversely affected water deliveries to water contractors. The purpose of the project is to restore the capacity of the 33-mile-long Middle Reach segment of the Friant-Kern Canal (FKC) as previously designed and constructed by RECLAMATION.

The scope includes construction of approximately 19-miles of new concrete-lined canal to be built adjacent to the existing Friant-Kern Canal from the existing Tule River siphon outlet to the existing Avenue 16 bridge. It also includes construction of approximately 12.3 miles of concrete liner and canal embankment raise along the existing Friant-Kern Canal in two zones. The first zone of canal raise is 7.5 miles long and is located upstream of the new canal work, from the existing 5th Avenue check structure outlet to the Tule River check structure inlet. The second zone of canal raise is 4.8-miles long and is located downstream of the new canal work, from the existing Avenue 16 bridge to the Woollomes Road bridge.

1.4 Features

The features to be constructed under the terms of this CMP include all the work set forth below.

The major features and items of work included in the whole project:

1. Construction of approximately 19 miles of new concrete-lined canal adjacent to the existing Friant-Kern Canal
2. Construction of approximately 12.1 miles of concrete liner and canal embankment raise along the existing Friant-Kern Canal
3. Construction of modifications to 12 existing reinforced concrete turnout structures on the existing Friant-Kern Canal
4. Construction of 16 reinforced concrete inverted siphon undercrossings of 14 roadways and 2 stream channels (Deer Creek and White River) including restoration of the existing roadways and stream channels.
5. Construction of two reinforced concrete check structures (Deer Creek and White River), reinforced concrete inlet and outlet transitions and control buildings
6. Construction of 23 reinforced concrete turnout structures on the new canal, including 8 gravity turnouts and 15 lift pump turnouts
7. Construction of four stormwater pump stations
8. Removal, disposal, abandonment, and salvage WORK at multiple sites along the canal including two existing automatic wasteways, and at two existing check structures (Deer Creek and White River)
9. Miscellaneous utility relocation and modification WORK including, but not limited to, utility pipeline crossings of the new canal and old canal, drainage culvert construction, and irrigation well demolition and abandonment.

It is anticipated that the work included in this CMP will be solicited under more than one construction contract. The total number of construction Contracts is not known at this time but will be based on funding constraints and procurement strategies. The initial construction contract, referred to as 'Phase 1', will be performed in the area where the greatest subsidence in the existing Friant-Kern Canal has taken place. The major features and items of work included in the Phase 1 construction contract are as follows:

1. Construction of approximately 10 miles of new concrete-lined canal adjacent to the existing Friant-Kern Canal
2. Construction of 8 reinforced concrete inverted siphon undercrossings of 7 roadways and 1 stream channel (Deer Creek) including restoration of the existing roadways and stream channel.
3. Construction of one reinforced concrete check structure at Deer Creek, reinforced concrete inlet and outlet transitions and control building
4. Construction of 9 reinforced concrete turnout structures on the new canal,
5. Construction of two stormwater pump stations
6. Removal, disposal, abandonment, and salvage WORK at multiple sites along the canal including one existing automatic wasteway, at one existing check structure (Deer Creek)

7. Miscellaneous utility relocation and modification work, including, but not limited to, utility pipeline crossings on the new canal and existing canal, drainage culvert construction, and irrigation well demolition and abandonment

There are additional features and items of work, specifically 2 gravity turnouts and 7 lift pump stations, within the Phase 1 project location that will also be constructed. The procurement strategy to construct these facilities will be mutually agreed to by all parties.

2.0 PRE-CONSTRUCTION ACTIVITIES

2.1 Pre-Construction Planning

2.1.1. Designer of Record (DOR)

Stantec Consulting, Inc. (Stantec) is the Designer of Record and shall prepare all designs, plans, and technical specifications, other design related documents, and other related Contract documents required by the Team and other project stakeholders. This will include preparation of conformed documents that incorporate changes to the solicitation documents made through amendments.

2.1.2. Environmental Commitments/Mitigation Measures

RECLAMATION and FWA will implement the environmental commitments and mitigation measures as specified in the Record of Decision, executed October 2020, and as described in Chapter 2 of the *Friant-Kern Middle Reach Capacity Correction Project Environmental Impact Statement/Environmental Impact Report (September 2020)*

2.1.3. Construction and Access Agreement Requirements

The Right of Entry and Construction Agreement is between RECLAMATION and FWA. It states in part that the additional right of way required to construct this project is being acquired by FWA in its name but on behalf of RECLAMATION, that FWA will ultimately transfer title to all permanent project right of way to RECLAMATION, and that RECLAMATION (including officers, employees, consultants and independent contractors) has the right to enter upon the project right of way acquired by FWA to carry out all work and activities necessary to construct the project.

2.1.4. Property Owners Notifications and Letters

RECLAMATION will provide notifications and letters to property owners adjacent to, or impacted, by the project.

2.1.5. Public Involvement

RECLAMATION will coordinate with FWA on public involvement. Field Engineer will provide accurate information on technical matters, schedule, and anticipated impacts to the public

2.1.6 Utility Relocation Coordination

There are utility relocation designs being prepared by Southern California Edison, Southern California Gas, AT&T, and Ducor Telephone. OPC is coordinating with utility companies through completion of all final relocation designs.

2.2. Procurement Phase

The WCO will have the lead responsibility, with FWA involvement for providing the RECLAMATION Contracting Officer (CO) recommendations concerning the acquisition method for each of the contracts. If a negotiated Contract is determined to be best suited for the individual procurement, WCO will develop the procurement plan and technical criteria and transmit to the CO. The CO will solicit input from the Team while making the determination of the acquisition method, and in developing the procurement plan and technical criteria.

2.2.1. Pre-Proposal Conference or Bidder Site Visit

For solicitations of a negotiated Contract, a pre-proposal conference will be held. For all other contracts, a site visit for all bidders will be conducted. RECLAMATION staff will organize and conduct a pre-proposal conference including site tours with potential offerors and suppliers for each contract. WCO staff will have the lead responsibility in organizing and conducting the tours. More than one tour may be necessary based on the itinerary and due to Covid-19 space limitations. Designers from Stantec as appropriate, will be included in the conferences. It is anticipated that the designers will brief those present at the conferences on the design intent. Personnel from the Friant Water Authority (FWA) will be present at the conferences to provide input as necessary. Any questions from the offerors must be submitted in writing to the CO.

2.2.2. Offeror Inquiries and Amendments

All inquiries by offerors will be in writing submitted to the CO. The Team will support the CO in developing a response. The CO will respond to all offerors accordingly.

2.2.4. Proposal Reviews or Bid Opening and Award of Construction Contracts

The procurement functions of proposal reviews or bid openings and contract awards are the responsibility of the CO.

If the solicitation is conducted under Federal Acquisition Regulation (FAR) 15, Contracting by Negotiation, an RFP is issued and a Technical Proposal Evaluation Committee (TPEC) will convene to evaluate the technical portion of the proposals. The CO may appoint someone from FWA and Stantec as an advisory, non-voting member to the TPEC. All members, (voting or non-voting) of the TPEC are required to sign a Conflict of Interest statement/Non-Disclosure Agreement and will receive appointment documents from the CO identifying their roles and responsibilities.

3.0 CONSTRUCTION ACTIVITIES

3.1. Organization and Responsibilities

The Team organization specifically associated with construction management of FKC Middle Reach Capacity Correction Project is presented in Appendix A. The organizational chart identifies the key positions to be utilized on this project. A list of individuals filling each position will be provided when known.

3.1.1. Executive Management Group (EMG)

The EMG is responsible for making critical project decisions on issues where agreement cannot be made at the PMG level or those decisions not within the authority of the PMG.

- RECLAMATION Principal Deputy RD –responsible for the overall quality, administration, and management of all project work constructed under the direction of RECLAMATION.
- FWA Chief Executive Officer – responsible for the overall quality, administration, and management of all work constructed under the direction of FWA Board of Directors.

3.1.2. Project Management Group (PMG)

It is anticipated that most project decisions will be made at the PMG level. The PMG consists of the following:

- RECLAMATION Willows Construction Office Manager (WCOM) is responsible for all aspects of construction and personnel out of the WCO.
- FWA Chief Operating Officer (COO) is responsible for overall management on behalf of FWA.
- RECLAMATION Project Manager facilitates determining project related decisions in cooperation with FWA project manager and is responsible for tracking overall Project schedule and Federal budget. RECLAMATION field staff will provide input into the schedule and budget. The Project Managers are responsible for elevating critical decisions to the EMG.
- FWA Project Manager facilitates determining project related decisions in cooperation with RECLAMATION project manager and is responsible for tracking overall Project schedule and the non-Federal budget. Coordinates

with utility companies any changes to design or schedule of utility relocations and keeps field team updated. The Project Managers are responsible for elevating critical decisions to the EMG.

3.1.3 Construction Management Group (CMG)

The CMG is responsible for the Contract administration and construction management of this project and consists of the following:

- RECLAMATION Contracting Officer (CO) – is in responsible charge of the Construction Contract, including authorizing changes and executing Contract actions not delegated to other RECLAMATION personnel.
- RECLAMATION Field Engineer (FE) – responsible for overseeing quality, schedule, and budget of the construction contract. The FE is the 1st level supervisor of the RECLAMATION personnel on the project site.
- RECLAMATION Contracting Officers Representative (COR) - responsible for duties assigned in the delegation of authority letter from the CO.
- RECLAMATION Office Engineering (OE) Division – responsible for facilitating the development of, and tracking, official contract correspondence payments, modifications, equitable adjustments, and document retention in coordination with RECLAMATION field staff.
- RECLAMATION Field Office Engineer – responsible for supporting construction administration activities including correspondence and quality assurance activities.
- RECLAMATION Field Inspector (s) - -part of the onsite contract administration team responsible for inspecting work to ensure conformance with contract specifications and drawings and performing quality assurance activities.
- Stantec Electrical/Controls Inspector – responsible for inspection of electrical/controls work to support RECLAMATION field staff onsite.
- RECLAMATION Materials Lab Supervisor and Technicians – part of the contract administration team responsible for sampling and testing of materials to ensure Contract requirements are met
- RECLAMATION Contract Specialist –will assist the CO and is responsible for preparing Contract actions.
- RECLAMATION Safety Manager is responsible for administration of the RECLAMATION Safety and Health Program and monitoring of contractors' construction safety program.

3.1.4. Technical Support and Stakeholders Coordination

The technical support and stakeholder coordination roles will support the Construction Management Group in the execution of the Contract.

- Designer of Record (Stantec) – will provide contract and engineering support in the form of technical reviews of contract correspondence (submittals, RFIs, RFCs) to ensure conformance with contract documents

and development of technical specs and drawings to support modifications to the contract consistent with the service contract in place for this work,. Stantec will serve as the Government Approved Reviewer (GAR) for submittals identified in the solicitation documents. Stantec will be responsible for interpretation of the design intent of the plans and specifications.

- Environmental Coordinator/Designated Biologist - will be onsite as required and is responsible for overseeing compliance with the environmental commitments made for the project and implementation of the Biological Resources Management and Monitoring Plan.
- RECLAMATION Technical Service Center (TSC) – will provide technical review and recommendations and factory inspections as requested by the RECLAMATION Construction or Project Management Staff.
- FWA Operations and Maintenance (O&M) –O&M personnel will coordinate access to facilities and outages as required in the Contract.
- RECLAMATION Area Office – attend weekly meetings and provide input as required.
- Water Districts – Stantec coordinator will communicate with individual water districts regarding outages and schedules for turnouts. Reclamation will provide submittals to Water Districts with impacted facilities for their review.
- Caltrans/Tulare County – will be coordinated with for permits and schedules of work within their respective Rights-of-Way. Reclamation will provide submittals to these agencies for review as described in the Contract Documents.
- Utility Owners – Southern California Edison, Southern California Gas and other relevant utility owners will coordinate with Stantec PM for the schedule of relocating required facilities.

3.2. Construction Authorities

RECLAMATION will have full contractual authority over the construction Contract and ensure all inherently Governmental functions are performed by authorized federal agents.

3.3. Safety

RECLAMATION on-site representatives have the responsibility and authority to stop work wherever they observe or have a reasonable belief that a safety hazard exists and will lead to imminent danger. Upon stoppage, the CO and RECLAMATION management will be notified immediately.

3.4. Construction Project Meetings

All Team members shall be notified of meetings that are scheduled pursuant to this section and may attend any meeting.

3.4.1. Post Award Conference

RECLAMATION's CO, with Willows Construction Office support will conduct a post award conference with the contractor and principal subcontractor(s) in accordance with the contract requirements. Items to be discussed include document control, schedule progress, progress payments, interface with the various parties, and communication protocol. The minutes of the post award conference will become part of the contract file and be distributed by the CO.

3.4.2. Weekly Construction Coordination Meetings

Weekly coordination meetings will be held for each construction contract. These meetings will be documented with minutes entered into the contract file. The Contractor will conduct the weekly construction coordination meetings. RECLAMATION, FWA, and the construction contractor will cooperatively develop the meeting agenda. These meetings will be conducted on site with access via conference call-in for individuals not able to attend on-site.

It is anticipated that technical support personnel and project stakeholders will be participating in these weekly coordination meetings as needed to discuss various technical, conformance, and administrative issues.

Coordination meetings will include agenda, information, discussion, and reporting on: safety; security; public relations; access, staging, and coordination; environmental compliance; schedules; submittals; correspondence; contract compliance; modifications; changes; RFP; RFI; construction activities; inspections; testing; and Quality Assurance/Quality Control (QA/QC).

3.4.3. Weekly Safety Meetings

Contractor toolbox safety meetings will be attended by RECLAMATION inspection staff on a regular basis.

3.4.4. Joint Policy Safety Meetings

Monthly safety meetings will be held between RECLAMATION and the contractor. The meetings will be scheduled and conducted by contractor staff in accordance with RECLAMATION Safety and Health Standards (RSHS).

3.5. Construction Phase Communications

It is RECLAMATION internal policy to utilize communication at the lowest level acceptable for the type of information being communicated; however, all

construction communications regardless of level should be succinctly and formally documented and entered into project files so that the contract files are reflective of actual circumstances.

3.5.1. Bi-Weekly Inspection Reports

RECLAMATION's on-site personnel will prepare and distribute weekly reports to RECLAMATION's Willows Construction Office for inclusion into the contract record. A copy of these reports will be available to FWA.

3.5.2. Monthly Reports

Monthly Reports will be prepared by RECLAMATION on-site personnel and distributed to FWA and WCO for distribution throughout RECLAMATION and will become part of the contract record.

3.5.3. Formal Correspondence

- All correspondence relative to the responsibilities and authorities of the WCO Manager are distributed directly from the WCO Manager.
- All correspondence relative to contract modifications, claims, and disputes are distributed directly from the CO.
- All correspondence sent to the construction contractor will be sent from RECLAMATION WCO staff.

3.6. Quality Assurance

RECLAMATION will award the construction project to a responsible and responsive contractor. The contractor will be responsible for controlling the quality of their work in accordance with the FAR 52.246-12 *Inspection of Construction*. RECLAMATION will perform quality assurance (QA) to ensure the contractor has fulfilled the contract obligations pertaining to quality and quantity. This will include inspection and testing to ensure compliance with specifications, drawings, and environmental and regulatory requirements.

3.6.1. Performance

QA activities will be performed directly by RECLAMATION construction management staff. QA requirements are described in each relevant Section of the construction Contract and associated reference sources.

RECLAMATION will provide adequate staffing to perform the QA requirements to ensure quality and compliance. RECLAMATION construction contract administration personnel will be fully trained and have complete understanding and knowledge of the construction documents and environmental compliance requirements.

3.6.2. QA Documentation

Inspection and testing reports will be prepared by WCO field engineering staff. All inspection testing records will be maintained in compliance with RECLAMATION standards.

3.7. Construction Contract Changes

Construction contract changes that occur during construction require expeditious handling by the Government to avoid construction delays and associated cost, schedule, and permit impacts. Every construction change proposed requires careful evaluation of necessity for the modification, environmental impacts, benefit to project, project scope, schedule impacts, costs of change, and available funding. A contract modification is required for any change to the Contract.

Contract modifications may be initiated by the Government and FWA or requested by the contractor. Construction contract changes initiated by the Government and FWA shall be formally documented with the Field Modification Request form and submitted to the contractor as a Request for Proposal (RFP) from the Contracting Officer (CO). Contractor requested changes shall be formally submitted to the CO with a cc to the COR/Field Engineer as a Request for Change (RFC) in conformance with requirements of FAR Clause 52.243-3 Changes.

Contract modifications requested by the contractor will be distributed by the COR to appropriate Team member(s). The COR will advise the CO on an appropriate review period depending upon the complexity of the change. If the change is found to have merit and is within scope, a statement of work and/or associated design and contract revisions will be developed by the appropriate Team member(s) for approval by the WCO Manager, FWA/RECLAMATION PMs, and applicable regulatory agencies. The CO will consult Team PMs regarding funding requirements. The CO will then evaluate, negotiate, and execute contract modifications. Work associated with any change can only be performed with CO direction or execution of a contract modification. FWA CEO approval required prior to contract modification execution.

3.8 Dispute resolution and Claims Avoidance

Reclamation shall track potential claims and keep a potential claims list. Issues that could turn into claims shall be dealt with at the lowest level but shall be elevated to the next higher level in an expeditious manner. Refer to Issue Escalation Plan figure for details.

Pre-Dispute resolution is being utilized in the solicitation to mitigate and avoid disputes. The first component in this mitigation is utilization of a source selection

plan which contains the applicable requirements for the contractor to thoroughly comprehend and formulate their bid package. The Team plans to also utilize FAR Part 15 requirements and a written source selection plan which will establish technical and price criteria (with major item cost breakdown) for all offerors to the solicitation from which the team can effectively evaluate offerors with the requisite experience and qualifications for a construction project of this magnitude and complexity.

Delegation of authority will be established to avoid disputes so that smaller issues can be analyzed and settled quickly on the construction site by the construction management team to reduce or eliminate the risk with disputes becoming larger. This will avoid a multitude of issues being elevated to management where they could accumulate and delay project completion. However, in order to prevent issues from accumulating at any level an issue escalation plan has been established, See Appendix B.

3.9 Environmental and Cultural Resources Compliance

Project environmental and cultural compliance requirements will be incorporated into construction specifications. The contractor will be responsible for complying with environmental and cultural resources requirements as described in the construction specifications.

RECLAMATION or FWA will provide the environmental coordinator and the qualified biologist(s) described in the project environmental commitments. They will work with RECLAMATION onsite Construction personnel to ensure that environmental guidelines are followed, and that appropriate environmental compliance documentation is maintained. Any environmental issues observed onsite will be brought to the attention of the COR. The COR will make appropriate communications or take appropriate actions with the contractor to remedy the issue.

Reclamation will provide any cultural resource specialists needed during construction.

3.10 Construction Safety and Site Visits

It is RECLAMATION policy that construction safety is its highest priority. The RSHS publication and the contract specifications are the basic minimum standards used for construction safety by both the contractor and RECLAMATION. These documents are used in conjunction with the latest versions of both California and Federal Occupational Safety and Health Act; whichever is the most stringent will prevail. The contractor is contractually responsible for assuring that their on-site employees, subcontractors, suppliers, and equipment abide by these requirements.

Due to the possibilities of injuries at any construction site, it is RECLAMATION policy that all people visiting the site notify the FE in advance to set up a mutually agreeable date and time for the visit/tour.

4.0 POST CONSTRUCTION ACTIVITIES

4.1 Technical Report of Construction

A final construction report will be prepared by RECLAMATION Field and Office Engineering for each Contract within approximately 3 months of project completion. A copy of this report will be available to FWA.

4.2 As-Built Drawings

RECLAMATION field staff will keep a regularly updated set of redlined plans in the field office to keep track of changes throughout the project. The Contractor is required to submit monthly progress As-Built drawings and Project Record As-Built drawings within 28 days of completing all onsite construction work for each Contract. RECLAMATION field staff will review the submitted drawings for accuracy and completeness and then forward to the RECLAMATION office staff in the WCO. RECLAMATION office staff will upload As-Built CADD drawings into the eDRAWS system. The drawings will then be reviewed and signed by the WCO Manager or delegate. It is anticipated the drawings will be signed within one year of receipt from the Contractor.

4.3 Operation and Maintenance Manuals

O&M Manuals will be submitted to RECLAMATION by the Contractor according to the requirements in Specifications Section 01 33 00 *Submittals*. FWA may elect to also receive O&M Manuals directly from the Contractor, or at the completion of each contract. If FWA elects to receive them at the completion of the project, the O&M manuals will be provided to FWA by the WCO Manager. Relevant notes and revisions will be made during the startup process.

4.4 Designer's Operating Criteria

Stantec, as the Designer of Record, will prepare, revise per comments, and finalize the Designer's Operating Criteria prior to completion of this project.

4.5 Transfer of Operation and Maintenance Responsibilities

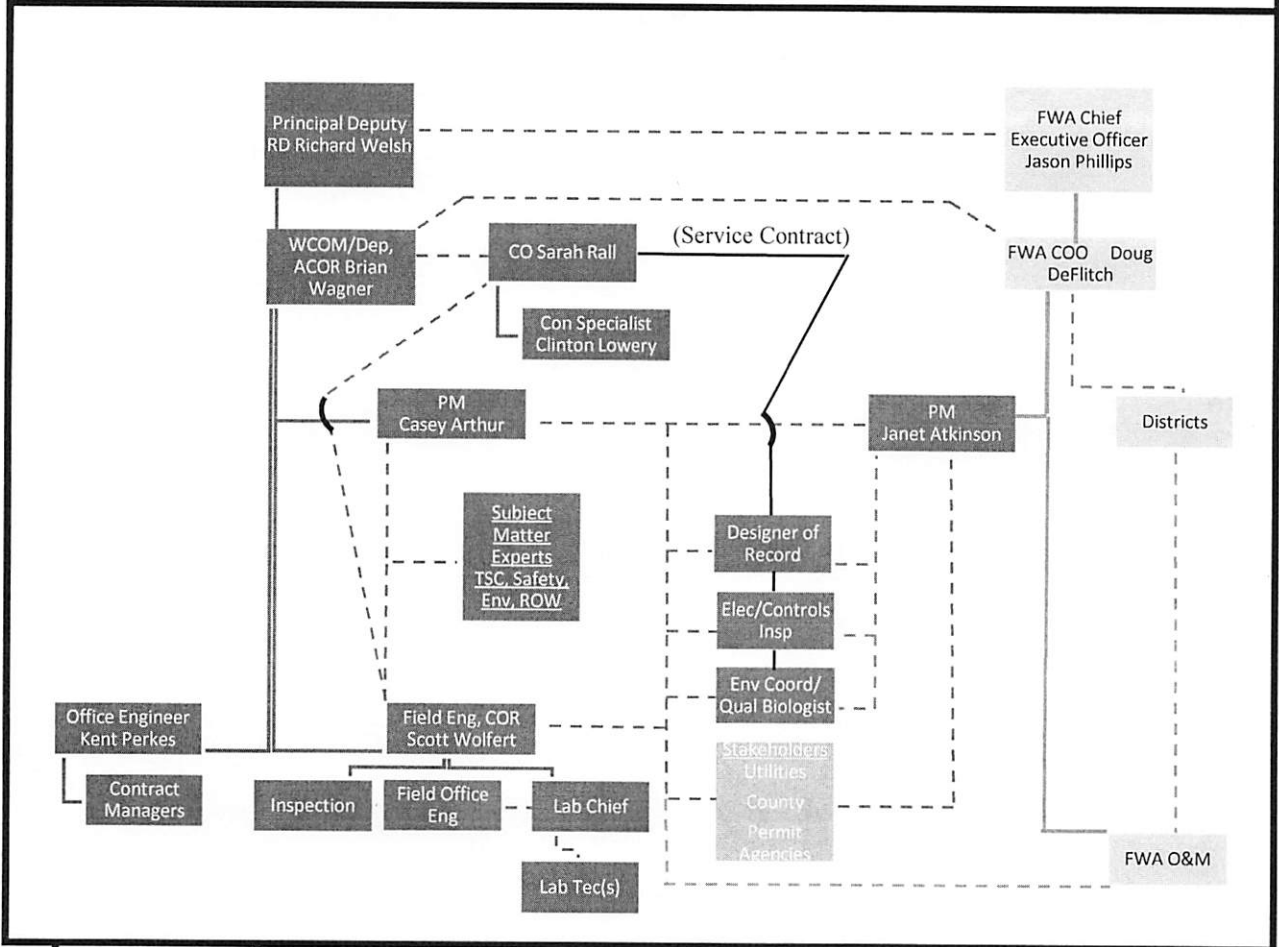
RECLAMATION PM will schedule a completion inspection to determine if the criteria for substantial completion are satisfied for each Contract. A punch list of any remaining contract work will be compiled and scheduled for completion. RECLAMATION will then transmit the Substantial Completion concurrence documentation. The direction for the Contractor to complete any required warranty work will be issued by RECLAMATION.

4.6. Standing Operating Procedures (SOP)

Any SOP requirement not in the specifications will need to be developed by FWA and RECLAMATION Areas Office.

APPENDIX A
Organizational Chart

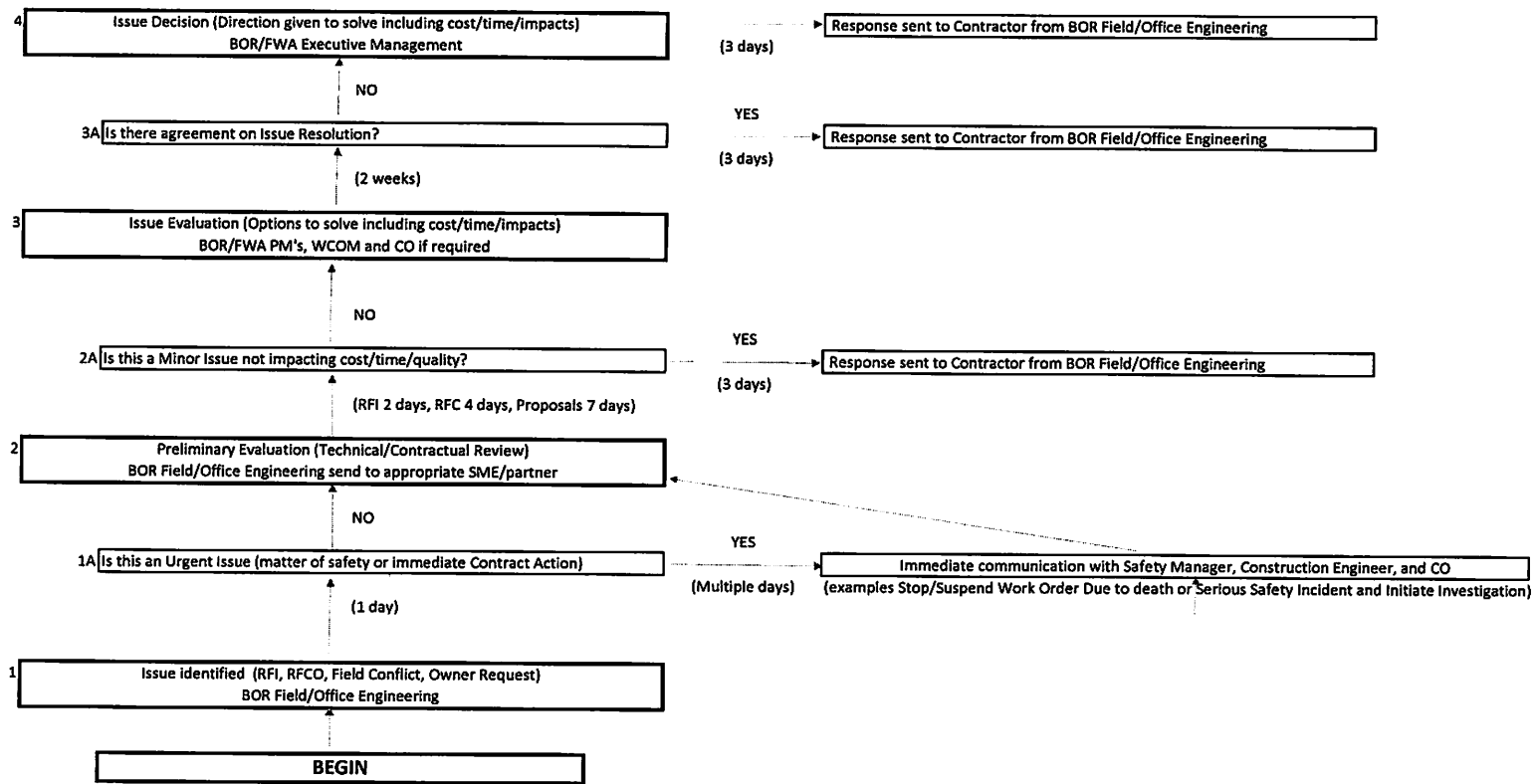
Friant-Kern Canal Middle Reach Capacity Correction Project Construction Organization Chart - Phase 1



Color Key	Line type Legend
Reclamation	————— Line of Authority
FWA/Districts	- - - - - Significant Communication
Stantec	
Other	

APPENDIX B

Issues Escalation Graphic



BOR-Bureau of Reclamation
 CO-Contracting Officer
 WCOM - Willows Construction Office Manager
 FWA-Friant Water Authority
 RFI-Request for Information
 RFC-Request for Change
 PM-Project Manager
 SME- Subject Matter Expert

EXHIBIT C

Initial Spending Plan

EXHIBIT C

SPENDING PLAN

Friant-Kern Canal Middle Reach Capacity Correction Project Phase 1 – Spending Plan

May 2021 Updated Draft¹

Estimated Cost and Maximum Cost for Phase 1:

Estimated Right of Way Cost: \$15.3 million
Estimated Construction Cost: \$224.3 million
Maximum Cost: \$262.5 million

Definitions:

Maximum Cost is the cost estimate for Phase 1 of the Project, including prior eligible costs. The Maximum Cost may only be increased if sufficient funding is identified and both FWA and Reclamation agree to increase the cost.

Phase 1 Construction and ROW Cash Flow is shown in Table 1 and represents the quarterly expenditures to complete Phase 1, including purchase of right-of-way (ROW).

Phase 1 Cost Shares are shown in Table 2 and show the expected quarterly contributions by FWA and Reclamation over the construction period. FWA or Reclamation can agree to fund a larger share of the quarterly payment, but total contributions for Phase 1 construction and ROW will be shared equally with FWA's intent to reach the 50% cost share level as soon as possible. FWA and Reclamation will meet on a quarterly basis to update cash flows and contributions to ensure that upcoming quarterly cash contributions are available. As new Project information is available (e.g., construction contract award, contractor's earnings schedule, etc.), the construction expenditures will be updated to reflect the new information. The timing of expenditures will be reviewed by Reclamation and FWA to ensure equity and contribution schedules can be met.

Phase 1 FWA Contributions are shown in Table 3 and represent the expected payments by FWA into the Contributed Funds Account.

¹ Updated to reflect construction beginning in late FY2022, Q1 and adjusted to reflect a "true-up" of FWA contributions to 50% of total Project costs to date subject to the receipt of the lump-sum Eastern Tule Groundwater Sustainability Agency payment option (i.e., for a total of \$125 million) by December 31, 2022. The initial version of the Spending Plan in the Cost Share and Contributed Funds Agreement identified construction to begin in Q3, FY2021. Top-line cost estimates remain the same as well as total FWA projected contributions and the agreed upon spending plan.

Table 1. Phase 1 Construction and ROW Cash Flow

**Friant-Kern Canal Middle Reach Capacity Correction Project
Phase 1 - Construction and Right of Way Cost Estimate
Estimate Dated: November 2020**

Calendar Year	Fiscal Year	Right of Way	Construction Management	Environmental Mitigation	Field Cost	Total
2021 Q2	2021 Q3	7,066,000	-	-	-	7,066,000
2021 Q3	2021 Q4	6,717,000	-	-	-	6,717,000
2021 Q4	2022 Q1	1,561,000	2,017,000	-	-	3,578,000
2022 Q1	2022 Q2		2,017,000	1,864,000	5,893,000	9,774,000
2022 Q2	2022 Q3		2,017,000	1,864,000	2,617,000	6,498,000
2022 Q3	2022 Q4		2,017,000	1,864,000	23,791,000	27,672,000
2022 Q4	2023 Q1		2,017,000	1,864,000	29,333,000	33,214,000
2023 Q1	2023 Q2		2,017,000	1,864,000	27,018,000	30,899,000
2023 Q2	2023 Q3		2,017,000	1,864,000	24,347,000	28,228,000
2023 Q3	2023 Q4		2,017,000	1,864,000	20,680,000	24,561,000
2023 Q4	2024 Q1		2,017,000	1,864,000	14,136,000	18,017,000
2024 Q1	2024 Q2		2,017,000	1,864,000	10,384,000	14,265,000
2024 Q2	2024 Q3		2,017,000	1,864,000	10,364,000	14,245,000
2024 Q3	2024 Q4		2,017,000	1,864,000	10,701,000	14,582,000
2024 Q4	2025 Q1				337,000	337,000
	Total	15,344,000	24,204,000	20,504,000	179,601,000	239,653,000

Table 2. Phase 1 Cost Shares

Phase 1 - Spending Plan and Cost Shares
Cost Estimate Dated: November 2020

Calendar Year	Fiscal Year	Federal Funding			Friant Water Authority			Percent Federal Funding Construction	Percent Federal Funding Cumulative*
		Construction	Right of Way	Federal Contributed Amount	Construction	Right of Way	FWA Contributed Amount		
2021 Q2	2021 Q3	-	3,725,000	3,725,000	-	3,341,000	3,341,000	53%	80%
2021 Q3	2021 Q4	-	2,106,000	2,106,000	-	4,611,000	4,611,000	42%	71%
2021 Q4	2022 Q1	1,311,000	1,015,000	2,326,000	706,000	546,000	1,252,000	47%	71%
2022 Q1	2022 Q2	6,353,100	-	6,353,100	3,421,000	-	3,421,000	53%	69%
2022 Q2	2022 Q3	4,223,700	-	4,223,700	2,274,000	-	2,274,000	56%	69%
2022 Q3	2022 Q4	17,986,800	-	17,986,800	9,685,000	-	9,685,000	60%	68%
2022 Q4	2023 Q1	21,589,100	-	21,589,100	11,625,000	-	11,625,000	62%	67%
2023 Q1	2023 Q2	-	-	-	30,899,000	-	30,899,000	46%	53%
2023 Q2	2023 Q3	9,751,150	-	9,751,150	18,476,850	-	18,476,850	44%	50%
2023 Q3	2023 Q4	12,280,500	-	12,280,500	12,280,500	-	12,280,500	45%	50%
2023 Q4	2024 Q1	9,008,500	-	9,008,500	9,008,500	-	9,008,500	46%	50%
2024 Q1	2024 Q2	7,132,500	-	7,132,500	7,132,500	-	7,132,500	46%	50%
2024 Q2	2024 Q3	7,122,500	-	7,122,500	7,122,500	-	7,122,500	46%	50%
2024 Q3	2024 Q4	7,291,000	-	7,291,000	7,291,000	-	7,291,000	46%	50%
2024 Q4	2025 Q1	169,150	-	169,150	337,000	-	337,000	46%	50%
Total		104,219,000	6,846,000	111,065,000	120,258,850	8,498,000	128,756,850	46%	50%

*Cumulative numbers include preconstruction costs incurred by Reclamation (\$20,164,000) and FWA (\$2,640,000)

Table 3. FWA Payments to Contributed Funds Account

**Friant Water Authority Quarterly Contributions
Phase 1 - Spending Plan and Cost Shares
Estimate Dated November 2020**

Calendar Year	Fiscal Year	FWA Contributions
2021 Q2	2021 Q3	-
2021 Q3	2021 Q4	-
2021 Q4	2022 Q1	706,000
2022 Q1	2022 Q2	3,421,000
2022 Q2	2022 Q3	2,274,000
2022 Q3	2022 Q4	9,685,000
2022 Q4	2023 Q1	11,625,000
2023 Q1	2023 Q2	30,899,000
2023 Q2	2023 Q3	18,476,850
2023 Q3	2023 Q4	12,280,500
2023 Q4	2024 Q1	9,008,500
2024 Q1	2024 Q2	7,132,500
2024 Q2	2024 Q3	7,122,500
2024 Q3	2024 Q4	7,121,850
2024 Q4	2025 Q1	337,000
	Total	120,089,700

EXHIBIT B

Placeholder for Draft Repayment Schedule

Draft will be Finalized upon the Contracting Officer's Issuance of
Substantial Completion Notice(s) for Each Phase