



Official Memorandum

PO Box 2157
Los Banos, CA 93635
sldmwa.org

To: SLDMWA Board of Directors, Alternates

From: Rebecca Akroyd, General Counsel

Date: October 8, 2026

RE: Adoption of Resolution Authorizing Execution of Reservation Agreement for Purchase, Sale, and Transfer of Mitigation Credits from Ashurst Ranch Conservation Bank Phase 1 for the B.F. Sisk Dam Raise and Reservoir Expansion Project and Related Expenditure of Up to \$5,131,050

Background

The B.F. Sisk Dam Raise and Reservoir Expansion Project (Reservoir Expansion Project or Project) includes raising the dam crest an additional 10 feet above the embankment raise under development by the B.F. Sisk Dam Safety of Dams (SOD) Modification Project. The 10-foot embankment raise would support an increase in reservoir storage capacity of approximately 130,000 acre-feet. In addition, the Reservoir Expansion Project includes installation of downstream stability berms and crack filters and raising the existing outlet works, intake towers, access bridge, and spillway intake by 10 feet and other modifications, including to State Route 152.

Six Water Authority member agencies are currently party to the First Amended and Restated B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement (Activity Agreement). The Activity Agreement provides the mechanism through which Water Authority staff negotiates and executes agreements with the U.S. Bureau of Reclamation (Reclamation) and other entities related to the Reservoir Expansion Project.

The Water Authority and Reclamation completed environmental compliance for the Project through a joint National Environmental Policy Act (NEPA)/California Environmental Quality Act (CEQA) document, the B.F. Sisk Dam Raise and Reservoir Expansion Project Final Environmental Impact Report/Supplemental Environmental Impact Statement (EIR/SEIS). On October 5, 2023, the Water Authority's Board of Directors adopted Resolution No. 2023-517 certifying the Final EIR, adopting CEQA Findings of Fact and Statement of Overriding Considerations, adopting a Mitigation Monitoring and Reporting Program (MMRP), and authorizing related actions. The Water Authority subsequently filed a Notice of Determination with the State Clearinghouse.

In addition to the joint NEPA/CEQA compliance, Reclamation and the Water Authority have engaged in interagency consultation in connection with the Project under Section 7(a)(2) of the federal Endangered Species Act (ESA), Section 106 of the National Historic Preservation Act, and other applicable requirements.

The U.S. Fish and Wildlife Service (USFWS) issued a biological opinion (BiOp) to Reclamation regarding the Project on December 5, 2022 in which the USFWS concluded that the Project, as proposed, is not likely to jeopardize the continued existence of the San Joaquin Kit Fox (SJKF), California tiger salamander Central California distinct population segment (CTS), or California red-legged frog (RLF). The BiOp includes conservation measures that were analyzed as part of the Project and are viewed by USFWS as necessary to minimize effects on the three species, including the purchase of 1,145 acres of compensatory mitigation for the permanent loss of SJKF habitat and the purchase of 1,051 acres of compensatory mitigation for the permanent loss of CTS and RLF habitat from a USFWS-approved conservation bank(s). (2022 BiOp, pp. 16.)



Pursuant to the California Endangered Species Act (CESA), the Water Authority submitted an application for an incidental take permit (ITP) to the California Department of Fish and Wildlife (CDFW) on April 25, 2023. While an ITP has yet to be issued, a draft ITP reviewed with the Water Authority requires compensatory mitigation in the form of 1,393.47 acres for SJKF, 1,128.63 acres for CTS upland, and 7.02 acres for CTS aquatic. Because compensatory mitigation acres purchased for the federal ESA can also satisfy CESA requirements, the draft ITP in effect requires the purchase of an additional 248.47 SJKF credits and 7.02 CTS aquatic credits beyond the 1,145 SJKF and 1,051 CTS/RLF credits required by the USFWS BiOp.

Issues for Decision

Whether the Board of Directors should authorize adoption of resolution authorizing execution of a Reservation Agreement for Purchase, Sale, and Transfer of Mitigation Credits from Ashurst Ranch Conservation Bank Phase 1 for the B.F. Sisk Dam Raise and Reservoir Expansion Project and Related Expenditure of Up to \$5,131,050 for the B.F. Sisk Dam Raise and Reservoir Expansion Project, including adoption of single source procurement justification.

Recommendation

Staff recommends adoption of the proposed resolution.

Analysis

Reclamation and the Water Authority researched available mitigation credits and mitigation banks with service areas that encompass the Project, focusing on conservation banks with SJKF, CTS, and RLF credits, including both upland and aquatic CTS credits, with credits that could be “stacked,” i.e. that allow the purchase of one acre of land that satisfies the credit obligation for two or more species.

The Regulatory in-Lieu Fee and Bank Information Tracking System (RIBITS) was used to search for mitigation banks with aquatic and upland credits. RIBITS shows the status of mitigation banks. The project team reviewed 12 approved mitigation banks and considered several banks that were anticipated for future approval. With the exception of Ashurst Ranch Phase 1, none of the banks offered all the quantities and types of credits required for the ITP and BiOp mitigation. This leaves the planned Ashurst Ranch Conservation Bank Phase 1 as the sole source option due to its ability to provide all ITP and BiOp mitigation requirements in addition to having a majority of credits that will be stacked resulting in competitive credit prices. Phase 1 is approximately 14,269 acres and is located in San Benito County, California, north and south of New Idria Road, just southeast of the town of Panoche.

The Water Authority negotiated the proposed Reservation Agreement for Purchase, Sale, and Transfer of Mitigation Credits from Ashurst Ranch Conservation Bank Phase 1 (Reservation Agreement) with Ashurst Ranch, LLC, the Bank Sponsor. Under the terms of the Agreement, the Water Authority would reserve 248.47 SJKF/CTS upland credits and 7.02 CTS aquatic credits for purchase, at the price of \$15,000 per upland and \$200,000 per aquatic acre. Following Bank and credit release approval, the purchase price balance will be paid pursuant to the terms of the Reservation Agreement.

Reclamation is negotiating a separate Reservation Agreement with Ashurst Ranch, LLC for the additional compensatory mitigation acres required under the USFWS BiOp and draft ITP (1,145 SJKF and 1,051 CTS/RLF credits).



While the Reservation Agreement has been reviewed by staff and is near final, it is possible that some edits may be required before the Agreement is finalized and executed. For this reason, in the resolution staff is requesting authorization to execute the Agreement in substantial form. It is also possible that as the Project moves forward, additional mitigation credits may be required; to address this possibility, the proposed Reservation Agreement includes both a mechanism to amend the agreement and a right of first refusal to purchase additional credits.

Budget Implications

The proposed expenditure would be funded utilizing B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement (Sisk Activity Agreement) funds collected from Activity Agreement Members.

Attachments

1. Proposed Resolution Authorizing Execution of Reservation Agreement for Purchase, Sale, and Transfer of Mitigation Credits from Ashurst Ranch Conservation Bank Phase 1 for the B.F. Sisk Dam Raise and Reservoir Expansion Project and Related Expenditure of Up to \$5,131,050 for the B.F. Sisk Dam Raise and Reservoir Expansion Project including adoption of single source procurement justification and expenditure of up to \$5,131,050.
2. Proposed Reservation Agreement for Purchase, Sale, and Transfer of Mitigation Credits from Ashurst Ranch Conservation Bank Phase 1 for the B.F. Sisk Dam Raise and Reservoir Expansion Project and Related Expenditure of Up to \$5,131,050 for the B.F. Sisk Dam Raise and Reservoir Expansion Project
3. Single Source Procurement Justification Form / Memo Attachment

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

RESOLUTION NO. 2026-

**RESOLUTION AUTHORIZING EXECUTION OF RESERVATION AGREEMENT FOR
PURCHASE, SALE, AND TRANSFER OF MITIGATION CREDITS FROM ASHURST
RANCH CONSERVATION BANK PHASE 1 FOR THE B.F. SISK DAM RAISE AND
RESERVOIR EXPANSION PROJECT AND RELATED EXPENDITURE OF UP TO
\$5,131,050**

WHEREAS, the B.F. Sisk Dam Raise and Reservoir Expansion Project (“**Reservoir Expansion Project**” or “**Project**”) includes raising the dam crest an additional 10 feet above the embankment raise under development by the B.F. Sisk Dam Safety of Dams (“**SOD**”) Modification Project. The 10-foot embankment raise would support an increase in reservoir storage capacity of approximately 130,000 acre-feet. In addition, the Reservoir Expansion Project includes installation of downstream stability berms and crack filters and raising the existing outlet works, intake towers, access bridge, and spillway intake by 10 feet and other modifications, including to State Route 152; and

WHEREAS, certain Water Authority member agencies have expressed interest in pursuing the Reservoir Expansion Project as non-federal investors, and in response to this interest the Water Authority Board adopted Resolution Nos. 2022-506 and 2025-536, authorizing execution of what is now the First Amended and Restated B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement (“**Activity Agreement**”), and six member agencies are currently party to the Activity Agreement (“**Activity Agreement Members**”); and

WHEREAS, the Water Authority and Reclamation completed environmental compliance for the Project through a joint National Environmental Policy Act (“**NEPA**”)/California Environmental Quality Act (“**CEQA**”) document, the B.F. Sisk Dam Raise and Reservoir Expansion Project Final Environmental Impact Report/Supplemental Environmental Impact Statement (“**EIR/SEIS**”); and

WHEREAS, on October 5, 2023, the Water Authority’s Board of Directors adopted Resolution No. 2023-517 certifying the Final EIR, adopting CEQA Findings of Fact and Statement of Overriding Considerations, adopting a Mitigation Monitoring and Reporting Program (“**MMRP**”), and authorizing related actions; and

WHEREAS, in addition to the joint NEPA/CEQA compliance, the Water Authority and Reclamation have engaged in interagency consultation in connection with the Project under Section 7(a)(2) of the federal Endangered Species Act (“**ESA**”), Section 106 of the National Historic Preservation Act, and other applicable requirements; and

WHEREAS, pursuant to the federal ESA, the U.S. Fish and Wildlife Service (“**USFWS**”) issued a biological opinion (“**BiOp**”) to Reclamation regarding the Project on December 5, 2022 in which the USFWS concluded that the Project, as proposed, is not likely to jeopardize the

continued existence of the San Joaquin Kit Fox (“**SJKF**”), California tiger salamander Central California distinct population segment (“**CTS**”), or California red-legged frog (“**RLF**”). The BiOp includes conservation measures that were analyzed as part of the Project and are viewed by USFWS as necessary to minimize effects on the three species, including the purchase of 1,145 acres of compensatory mitigation for the permanent loss of SJKF habitat and the purchase of 1,051 acres of compensatory mitigation for the permanent loss of CTS and RLF habitat from a USFWS-approved conservation bank(s) (2022 BiOp, pp. 16); and

WHEREAS, pursuant to the California Endangered Species Act (“**CESA**”), the Water Authority submitted an application for an incidental take permit (“**ITP**”) to the California Department of Fish and Wildlife (“**CDFW**”) on April 25, 2023; and

WHEREAS, while an ITP has yet to be issued, a draft ITP reviewed with the Water Authority requires compensatory mitigation in the form of 1,393.47 acres for SJKF, 1,128.63 acres for CTS upland, and 7.02 acres for CTS aquatic. Because compensatory mitigation acres purchased for the federal ESA can also satisfy CESA requirements, the draft ITP in effect requires the purchase of an additional 248.47 SJKF/CTS upland credits and 7.02 CTS aquatic credits beyond the 1,145 SJKF and 1,051 CTS/RLF credits required by the USFWS BiOp; and

WHEREAS, Section 1.1 of the Water Authority’s Consolidated Procurement Policy, adopted by Resolution No. 2025-547 on August 7, 2025, requires the Board to specifically authorize contracts greater than \$200,000, and Section 2.3 requires the Water Authority make specific findings prior to executing a single source contract; and

WHEREAS, the Water Authority has negotiated a Reservation Agreement for Purchase, Sale, and Transfer of Mitigation Credits from Ashurst Ranch Conservation Bank Phase 1 (“**Reservation Agreement**”) to reserve 248.47 SJKF/CTS upland credits and 7.02 CTS aquatic credits for purchase, at the price of \$15,000 per SJKF/CTS upland and \$200,000 per CTS aquatic acre; and

WHEREAS, single source procurement is justified as only Ashurst Ranch Conservation Bank meets the Water Authority’s needs for the Project, as described in **Attachment 1**; and

WHEREAS, the Reservation Agreement will be funded with Activity Agreement funds collected from Activity Agreement Members; and

WHEREAS, execution of the Reservation Agreement is an administrative action that implements previously adopted and analyzed conservation measures and does not constitute a project under CEQA Guidelines section 15378.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS, THAT:

Section 1. The facts stated in the recitals above are true and correct, and the Board so finds and determines.

Section 2. The Board hereby authorizes the Executive Director or Chief Operating Officer to execute the Reservation Agreement for Purchase, Sale, and Transfer of Mitigation Credits from Ashurst Ranch Conservation Bank Phase 1 for the B.F. Sisk Dam Raise and Reservoir Expansion

Project in substantially the form presented to the Board, subject to such additions, deletions, and other revisions as the said Executive Director or Chief Operating Officer shall approve prior to execution; adoption of single source procurement justification; and related expenditure of up to \$5,131,050 utilizing B.F. Sisk Dam Raise and Reservoir Expansion Project Activity Agreement funds.

Section 3. The Executive Director, Chief Operating Officer, and any Water Authority employees, consultants, or agents directed by the Executive Director or Chief Operating Officer hereby are further authorized and directed to take such additional steps, and to execute such additional documents, as may be required or reasonably necessary or convenient for completing and implementing the activities authorized by this Resolution.

PASSED, APPROVED AND ADOPTED this 8th day of October, 2026, by the Board of Directors of the San Luis & Delta-Mendota Water Authority.

Cannon Michael, Chair
San Luis & Delta-Mendota Water Authority

Attest:

Federico Barajas, Secretary

I hereby certify that the foregoing Resolution No. 2026- was duly and regularly adopted by the Board of Directors of the San Luis & Delta-Mendota Water Authority at the meeting thereof held on the 8th day of October, 2026.

Federico Barajas, Secretary

**RESERVATION AGREEMENT FOR PURCHASE, SALE, AND
TRANSFER OF MITIGATION CREDITS FROM ASHURST
RANCH CONSERVATION BANK PHASE 1**

This Reservation Agreement for Purchase, Sale, and Transfer of Mitigation Credits from the Ashurst Ranch Conservation Bank Phase 1 ("**Agreement**") is entered into as of day of _____, 2026 ("**Effective Date**") by and between SAN LUIS & DELTA-MENDOTA WATER AUTHORITY ("**Buyer**"), and ASHURST RANCH MITIGATION BANK, LLC, a California limited liability company ("**Ashurst**"). Buyer and Ashurst are collectively referred to as the "**Parties**" to this Agreement.

RECITALS

A. Ashurst is developing, and is in the process of obtaining resource agency approvals for, the Ashurst Ranch Conservation Bank Phase 1 ("**Bank**") located in San Benito County, California.

B. Specifically, Ashurst is seeking approval from the United States Fish and Wildlife Service ("**USFWS**") and California Department of Fish and Wildlife ("**CDFW**") to (the "**Resource Agencies**") sell various credits from the Bank (including the Buyer Credits, as defined below), pursuant to the Conservation Bank Enabling Instrument ("**CBEI**"), that will be entered into for the Bank ("**Bank Agreement**").

C. Buyer acknowledges and has full knowledge that the Bank is not yet an approved conservation bank by the USFWS or CDFW.

D. Buyer and project partner U.S. Bureau of Reclamation ("**Reclamation**") are seeking to implement a project described as the B.F. Sisk Dam Raise and Reservoir Expansion Project (including work on state highway SR 152) ("**Buyer Project**") and are seeking to compensate for the impacts of the Buyer Project ("**Project Impacts**") in order for Buyer and Reclamation to mutually comply with the requirements of the federal Endangered Species Act ("**ESA**"), and for Buyer to comply with the California Endangered Species Act ("**CESA**"), as appropriate, for purposes of the project.

E. Buyer and Reclamation seek to compensate for the Project Impacts and comply with the ESA, and Buyer seeks to comply with CESA by reserving the right to purchase 248.47 CDFW-approved San Joaquin kit fox/upland California tiger salamander group credits and 7.02 aquatic California tiger salamander credits from the Bank (collectively, "**Buyer Credits**") in accordance with the terms and conditions set forth below.

F. Buyer and Ashurst may seek to cooperate and coordinate with one another to obtain future approval of other regulatory agencies ("**Regulatory Agencies**"), including for example, the Central Valley Regional Water Quality Control Board or State Water Resources Control Board (as applicable) ("**Water Board**"), as well as CDFW, of some or all of the Buyer Credits, as appropriate, for use in mitigating Project Impacts permitted by authorizations issued

by those agencies, including authorizations issued under the California Porter Cologne Water Quality Control Act and the Streambed Alteration Agreement provisions of the California Fish and Game Code (sections 1600 *et. seq.*). If new, additional Bank mitigation credits ("**Additional Credits**") are developed, the Parties may cooperate and coordinate with the Resource Agencies and other Regulatory Agencies to establish and obtain approval by some or all of those agencies.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1. **RESERVATION OF BUYER CREDITS**

1.01. Reservation for Purchase and Sale. Ashurst shall reserve for up to thirty (30) months after the Effective Date (or such later date as may be determined by Buyer pursuant to Section 1.03(B)(i) (the "**Outside Closing Date**"), the Buyer Credits for their purchase by Buyer from Ashurst on terms and conditions specified in this Agreement. Buyer is obligated hereunder to purchase the Buyer Credits described in Recital E above, unless any of the following conditions precedent to closing are not satisfied by the Outside Closing Date: the Resource Agencies do not approve (a) the Bank, (b) the release of some or all of Buyer Credits, or (c) Buyer's use of some or all of Buyer Credits for mitigation of Project Impacts, because if the Resource Agencies approve the Bank but do not approve Buyer's use of the credits for the Project, Buyer would have no value in completing the purchase. In the event any of the closing conditions precedent are not satisfied, Section 1.03(B) shall apply. Provided all conditions precedent are satisfied, upon Buyer's delivery of the Purchase Price Balance as set forth in Section 1.03(C), Ashurst shall sell full ownership interest in the Buyer Credits to Buyer, and shall transfer the Buyer Credits to Buyer in accordance with the terms and conditions of this Agreement.

1.02. Purchase Price and Right of First Refusal for Additional Credits.

A. Purchase Price. The total purchase price ("**Purchase Price**") for Buyer Credits (i.e., the 248.47 USFWS and CDFW-approved San Joaquin kit fox/upland California tiger salamander group Credits (fifteen thousand Dollars (\$15,000) per Credit) and 7.02 aquatic California tiger salamander Credits (two hundred thousand Dollars (\$200,000) per Credit) shall be five million one hundred thirty-one thousand and fifty Dollars (\$5,131,050).

B. Right of First Refusal for Additional Credits for Buyer Project. From and after approval by the Resource Agencies or other Regulatory Agencies of any Additional Credits, Buyer shall have a right of first refusal to purchase Additional Credits to compensate for Project Impacts, as-needed, at fifteen thousand Dollars (\$15,000) per USFWS and CDFW approved Credit for San Joaquin kit fox and upland California Tiger Salamander (CTS) species habitat impacts, and two hundred thousand Dollars (\$200,000) per USFWS and CDFW

approved Credit for CTS aquatic species habitat impacts, which Additional Credits may be used for any mitigation purpose approved by the Resource Agencies or other Regulatory Agencies. Ashurst shall promptly notify Buyer of any opportunity to purchase Additional Credits, and Buyer shall have thirty (30) days from the date Ashurst provides notice to determine whether Buyer will exercise the right of first refusal. After providing notice of intent to exercise the right of first refusal, Buyer shall have an additional thirty (30) days to purchase Additional Credits by making payment in full for Additional Credits at the price set forth in this paragraph. Buyer may provide notice during the additional thirty (30) day period following issuance of its notice of exercise of the right of first refusal but prior to payment that Buyer no longer intends to exercise the right to purchase some or all of the Additional Credits ("**Cancellation Notice**"). If Buyer fails to provide notice to Ashurst of its intent to exercise, or issues a Cancellation Notice, then Ashurst shall have full ownership interest in the Additional Credits rejected by Buyer, including the right to sell such Additional Credits to any party. In the event Buyer provides notice of its intent to exercise this right of refusal and pays the purchase price for the Additional Credits, the transaction shall otherwise be implemented in accordance with all applicable terms and conditions of this Agreement, except that no portion of the Deposit or any interest thereon as defined and discussed in Section 1.03 shall be applied to the purchase price of Additional Credits. Any future purchase of Additional Credits beyond those described in this Section 1.02.B will be subject to the Parties' mutual written agreement regarding the type, quantity, and price of such credits.

1.03. Closing and Payment.

A. Deposit. Buyer shall deliver to Ashurst ten percent (10%) of the total purchase price set forth in section 1.02 above, equal to five hundred thousand one hundred and five Dollars (\$513,105) (the "**Deposit**") within sixty (60) days after the Effective Date. The Deposit shall be placed in an interest-bearing escrow account for benefit of Buyer ("**Escrow Account**"), with fifty percent (50%) of the Deposit available to Ashurst to fund Bank expenses upon the Resource Agencies providing a "Completeness Letter" for the Bank prospectus. The balance of the Deposit (the remaining fifty percent (50%)) will be available to fund the endowment upon the Resource Agencies' execution of the Bank Agreement (upon CBEI execution by Resource Agencies) and approval of the release of all Buyer Credits, subject only to posting the endowment. The Deposit shall be immediately nonrefundable to Buyer except to the extent otherwise provided in this Agreement, including Section 1.03(B)(ii) below. Upon receipt of the Deposit, unless the Deposit is refunded to Buyer pursuant to the terms and conditions of this Agreement, Ashurst shall have the obligation to sell and transfer to Buyer the Buyer Credits for the price set forth in Section 1.02(A); Ashurst shall also use commercially reasonable efforts to add reference to the reservation of Buyer Credits under this Agreement to the notes section of the credit ledger set forth in the RIBITS entry for the bank. The full Deposit, together with any interest earned thereon while it is held in the Escrow Account, shall either be applied to the Purchase Price on the Closing Date as set forth in Section 1.03(C), or shall be returned to Buyer as set forth in Section 1.03(B)(ii) below. In the event that the Deposit is to serve as liquidated damages to Ashurst in accordance with this Agreement, including Section 1.07 below, then the amount of the Deposit transferred to Ashurst as liquidated damages shall be the amount of the Deposit remaining in the Escrow Account after Ashurst has accessed the Deposit to pay Bank and endowment expenses, if any, together with any interest earned thereon.

B. Failure to Satisfy Closing Conditions Precedent by the Outside Closing Date. Notwithstanding the foregoing, if, for whatever reason, Ashurst fails by the Outside Closing Date to obtain final approval of the Bank and release of the Buyer Credits from the Resource Agencies or Buyer is unable to obtain Resource Agencies' approval of the release of all or a portion of the Buyer Credits for Buyer's use of all or a portion of the Buyer Credits for mitigation (the "**Unapproved Credits**"), then upon such date, Buyer may elect to proceed in any of the following ways:

- i. If Buyer determines that final approval of the Bank and release of the Buyer Credits from the Resource Agencies is anticipated within a time period that would enable the Buyer to utilize the Buyer Credits to comply with applicable mitigation requirements, Buyer shall have and may exercise up to two, one-year options to extend the Outside Closing Date one additional year, and upon exercise the extended date would become the Outside Closing Date; or
- ii. At Buyer's request, all or the portion of the Deposit, notwithstanding portion made available to Ashurst to fund Bank and endowment expenses, applicable to the Unapproved Credits held by Ashurst (which portion of the Deposit shall be equal to ten percent (10%) of the total purchase price per Credit multiplied by the total number of Unapproved Credits consistent with the method for calculating the purchase price per credit and Deposit set forth in section 1.02(A)) shall be returned promptly to Buyer and this Agreement shall terminate with respect to the Unapproved Credits without any further obligation or liability regarding such credits by Ashurst to Buyer or Buyer to Ashurst. The total Purchase Price delivered by Buyer shall be reduced by the price of the Unapproved Credits, and Ashurst shall own and have all rights related to the Unapproved Credits, including the right to sell them to any other buyer in its sole discretion.

C. Purchase Price Balance. Buyer shall deliver to the Escrow Account any remainder of the applicable Purchase Price for the Buyer Credits, i.e., the Purchase Price calculated pursuant to section 1.02(A) above, less the full Deposit together with any interest earned on the Deposit pursuant to section 1.02(A) above, less any portion of the Purchase Price associated with any Unapproved Credits calculated pursuant to section 1.03(B)(ii) above (the "**Purchase Price Balance**"). Buyer shall deliver the Purchase Price Balance to the Escrow Account in cash or by cashier's check or by wire transfer or by any other cash equivalent twenty-four hours (24 hours) prior to the Closing Date, as defined in section 1.04 below.

1.04. Closing Date. For the purposes of this Agreement, the "**Closing Date**" shall occur on or before sixty (60) business days after Ashurst has received agency approval of the Bank and release of Buyer Credits, and the Buyer has notified Ashurst in

writing that Buyer has obtained all necessary approvals from the Resource Agencies to use and accept a transfer of the Buyer Credits as mitigation. Prior to the Closing Date, Ashurst will provide Buyer sixty (60)-days' advance notice of Ashurst's target date for approval from the Resource Agencies. In no event shall the Closing Date be later than the Outside Closing Date, as it may be extended by Buyer pursuant to section 1.03(B)(i) above. The Parties shall cooperate with one another, and shall each use good faith and best efforts to obtain Resource Agency approvals for the use of all Buyer Credits to meet Buyer's mitigation requirements as set forth in this Agreement. The written notice from Buyer to Ashurst shall identify the exact type and amount of Buyer Credits, excluding any Unapproved Credits, to be purchased by Buyer on the Closing Date, and the permits or authorizations for Project Impacts required by applicable law and issued by the Resource Agencies or other Regulatory Agencies that the Buyer Credits will be used to satisfy.

1.05. Closing Deliverables. The Parties shall deliver to the Escrow Account and exchange the following on the Closing Date:

A. Buyer's Deliveries. In addition to the Purchase Price Balance for the Buyer Credits being purchased, Buyer shall deliver to the Escrow Account signed copies of the applicable closing documents required by the Bank Agreement for the sale and if applicable after Buyer's election under section 1.03(B), the transfer to Buyer of the Buyer Credits. Specifically, Buyer shall deliver a signed copy of Exhibit F-2b of the Bank Agreement entitled "**Credit Sale and Transfer Agreement**," including the Bill of Sale attached thereto, all terms and conditions of which shall be consistent with the terms and conditions of this Agreement and shall appear in the manner and form required by the Bank Agreement to effectuate the sale described herein (the "**Closing Agreement**"). The purchase price reflected in the Closing Agreement shall be based upon the Purchase Price paid by Buyer as it may be adjusted for Unapproved Credits hereunder, and the Parties acknowledge and agree that the Buyer Credits sold to Buyer under the Closing Agreement and the purchase price paid by Buyer under the Closing Agreement are the same as, and not in addition to, the Buyer Credits and Purchase Price, as it may be adjusted for Unapproved Credits, described in this Agreement.

B. Ashurst's Deliveries. Ashurst shall deliver to the Escrow Account counter-signed copies of the closing documents required by the Bank Agreement for the sale and transfer of the Buyer Credits. Specifically, Ashurst shall deliver:

- i. Final approved Bank Agreement and Credit Releases of the Buyer Credits.
- ii. A signed copy of the Closing Agreement together with the documents described therein required by the Bank Agreement to be delivered by Ashurst on the Closing Date.
- iii. For Buyer Credits approved for Buyer's use by the Resource Agencies or other Regulatory Agencies on or before the Closing Date, a completed Credit Transfer Ledger consistent

with Exhibit F-3 of the Bank Agreement sufficient to transfer the credits to Buyer as necessary to fulfill the requirements of each Resource Agency and any other Regulatory Agencies accepting the credits as mitigation to satisfy Buyer's permits and authorizations.

- iv. Proof of entry of the sale into the Regulatory In-lieu fee and Bank Information Tracking System ("**RIBITS**"), together with any other transfer documentation expressly required under the CBEI.

C. Additional Instruments and Actions. Ashurst and Buyer shall each deposit such other instruments and take such other actions as are reasonably required to proceed with the closing and consummate the sale and transfer of the Buyer Credits to Buyer in accordance with the terms of this Agreement.

1.06. Closing Costs.

A. Borne by Ashurst. Ashurst shall pay all fees, costs, and expenses related to establishment, operation, and management of the Bank and Resource Agencies' approval of the Bank, the Buyer Credits, and the release of the Buyer Credits, and accounting and reporting costs associated with the transfer of Credits, including all costs and fees any financial and performance securities required for the Bank and the Credits, the provision of the long-term endowment, and all fees for Ashurst's consultants and attorneys, including its own legal and professional fees and fees of other consultants incurred regarding this transaction.

B. Borne by Buyer. Buyer shall pay its own legal and professional fees and fees of other consultants incurred regarding this transaction and obtaining necessary approvals by the Resource Agencies and any other Regulatory Agencies for use of released Credits as mitigation.

1.07. Buyer's Default; Liquidated Damages. SHOULD THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT FAIL TO BE CONSUMMATED ACCORDING TO THE TERMS OF THIS AGREEMENT FOR ANY REASON OTHER THAN A DEFAULT OF ASHURST OR FAILURE TO SATISFY THE CONDITIONS PRECEDENT TO CLOSING (NAMELY, ASHURST'S FAILURE TO OBTAIN APPROVAL OF THE BANK OR RELEASE OF BUYER CREDITS BY THE OUTSIDE CLOSING DATE, OR THE RESOURCE AGENCIES' REFUSAL TO APPROVE BUYER'S USE OF THE BUYER CREDITS TO MITIGATE PROJECT IMPACTS BY THE OUTSIDE CLOSING DATE), THEN IN SUCH EVENT ASHURST SHALL HAVE AS ITS SOLE REMEDY THE RIGHT TO TERMINATE THIS AGREEMENT, AND IN THE EVENT OF SUCH TERMINATION ASHURST SHALL BE RELIEVED OF ANY OBLIGATION TO SELL THE BUYER CREDITS TO BUYER. THE DEPOSIT PAID HEREUNDER AND ALL INTEREST THEREON SHALL BE RETAINED BY ASHURST AS LIQUIDATED DAMAGES PURSUANT TO

CALIFORNIA CIVIL CODE SECTIONS 1671, 1676 AND 1677 AND AS CONSIDERATION FOR ASHURST KEEPING THE BUYER CREDITS OFF OF THE MARKET FOR SALE TO OTHERS, TO THE EXTENT THAT THE FAILED CLOSING WAS BUYER'S FAULT. THE PARTIES AGREE THAT IT WOULD BE IMPRACTICAL AND EXTREMELY DIFFICULT TO FIX THE ACTUAL DAMAGES THAT ASHURST MIGHT SUFFER IN THE EVENT OF BUYER'S DEFAULT HEREUNDER. UPON ANY SUCH BREACH OR DEFAULT BY BUYER HEREUNDER AND SUCH TERMINATION OF THIS AGREEMENT BY ASHURST, THIS AGREEMENT SHALL BE TERMINATED AND NEITHER PARTY SHALL HAVE ANY FURTHER RIGHTS OR OBLIGATIONS HEREUNDER, EACH TO THE OTHER, EXCEPT FOR THE RIGHT OF ASHURST TO RETAIN SUCH LIQUIDATED DAMAGES. EXCEPT AS PROVIDED FOR ABOVE, RECEIPT AND RETENTION OF THE DEPOSIT PAID HEREUNDER SHALL BE THE SOLE, LIQUIDATED DAMAGES OF ASHURST IN THE EVENT OF ANY BREACH OR DEFAULT BY BUYER HEREUNDER. THE PAYMENT AND RETENTION OF SUCH AMOUNT AS LIQUIDATED DAMAGES IS NOT INTENDED AS A FORFEITURE OR PENALTY WITHIN THE MEANING OF CALIFORNIA CIVIL CODE SECTIONS 3275 OR 3369.

Buyer's Initials

Ashurst's Initials

1.08. Ashurst's Default.

A. Should the transaction contemplated by this Agreement fail to occur on the Closing Date due to a breach of this Agreement by Ashurst where such default or breach is not cured by Ashurst within thirty (30) days after Ashurst's receipt from Buyer of written notice of such default or breach, then (a) this Agreement shall not be terminated automatically, but only upon delivery to Ashurst of written notice of termination from Buyer, and (b) Buyer shall elect, as Buyer's sole and exclusive remedy to either: (i) so terminate this Agreement, in which case Ashurst shall return to Buyer the full Deposit; (ii) pursue an action for specific performance of this Agreement; or (iii) if specific performance is not available, for example because Ashurst is unable to complete the Bank approval process notwithstanding this Agreement, Ashurst shall immediately meet and confer with Buyer to negotiate an amendment to this Agreement to address (1) commercially reasonable efforts to eliminate or mitigate any loss of credits, schedule impacts, and other consequences impacting the Agreement; and (2) necessary assistance to enable Buyer to assist Ashurst in completing the Bank approval process. Ashurst shall cooperate fully and in good faith with the Buyer.

B. Notwithstanding any other provision of this Agreement, if Ashurst, after satisfying its commercially reasonable efforts and cooperation obligations under this Section 1.08.A.(b)(iii), is unable to obtain approval for establishment of the Bank, approval or release of the necessary Buyer Credits, or approval for Buyer's use of the Buyer Credits for the Buyer Project, Buyer's sole and exclusive remedy for such failure shall be return of the applicable

Deposit, together with any interest earned thereon, and neither Party shall have any further obligation or liability to the other with respect to such unavailable or unapproved credits.

ARTICLE 2.

OBLIGATIONS WITH RESPECT TO BUYER CREDITS

2.01. Ashurst Obligations Regarding Bank Responsibilities. The provisions of this Section shall survive the Closing Date for each Buyer Credit purchased by Buyer.

A. Purchase Price. The Purchase Price includes, and Ashurst shall be solely responsible for all costs associated with the creation, approval, operation, and management of the Bank, release of Credits, and accounting for Buyer's mitigation provided by the Buyer Credits or any other Additional Credits sold and transferred to Buyer, including any easement, endowment, management and monitoring costs related to the Buyer Credits and any Additional Credits. Buyer shall have no obligation by reason of the purchase of the Buyer Credits or any Additional Credits as described herein, to support, pay for, monitor, report on, sustain, or otherwise be responsible for the success or continued expense, management, enhancement, or maintenance of the habitat represented by the Buyer Credits, Additional Credits, or the Bank.

B. Conditions Placed on the Bank and Buyer Credits. Ashurst shall be fully and completely responsible for satisfying any and all conditions placed on the Bank and the Buyer Credits by the Resource Agencies or any other Regulatory Agencies, except that if, as a condition to approval of the Bank, release of the Buyer Credits, or authorization to sell or transfer the Buyer Credits, any Resource Agency imposes requirements that Ashurst reasonably determines, based on objective evidence, that would materially and adversely affect the economic or practical feasibility of developing, approving, operating, or maintaining the Bank, then Ashurst shall provide Buyer with written notice describing such requirements and the basis for Ashurst's determination. Following such notice, the Parties shall meet and confer in good faith for period of thirty (30) days, which the Parties may mutually agree to extend, to determine whether the Agreement or the contemplated transaction can be modified in a commercially reasonable manner to address such requirements. If, after such meet-and-confer period, the Parties are unable to agree on commercially reasonable modifications to this Agreement that would enable the transaction to be consummated and the applicable agency-imposed requirements continue to materially and adversely affect the feasibility of the Bank, Ashurst may terminate this Agreement upon written notice to Buyer. Upon such termination, the full Deposit, together with any interest earned thereon, shall be returned to Buyer, and neither Party shall have any further obligation under this Agreement except for obligations that expressly survive termination.

C. Prohibited Action. Ashurst shall not take any action or fail to take any action that could result in termination or improper closure of the Bank, suspension or cessation of the sale or transfer of Buyer Credits, or if established, any Additional

Credits, or otherwise prevent or impair the consummation of the transactions contemplated by this Agreement, including without limitation the reservation, sale, or transfer of Buyer Credits or the exercise of the Buyer's right of first refusal regarding Additional Credits.

2.02. Buyer Obligations Re Qualification of Mitigation Values. Buyer shall, at Buyer's sole cost and expense, take such actions as are reasonably necessary to ensure that the Resource Agencies will accept the Buyer Credits as compensatory mitigation for the permits and authorizations they issue for Project Impacts.

2.03. Agency Approval of the Use of Credits. The Parties shall cooperate to obtain approval by the Resource Agencies and other Regulatory Agencies of the release and Buyer's use of Buyer Credits to mitigate Project Impacts. The Parties shall also cooperate to obtain approval by the Regulatory Agencies of any Additional Credits that may be offered by the Bank and required by Buyer to satisfy future permitting requirements, e.g. those associated with compensatory mitigation required by the Project Section 401 certification, Section 404 permit, or Lake and Streambed Alteration Agreement. If Ashurst develops such Additional Credits, Buyer shall have a right of first refusal to purchase such mitigation credits in accordance with Section 1.02 above.

2.04. Exclusivity. Ashurst shall not sell or assign to any third party the Buyer Credits before the Outside Closing Date, unless Buyer or Ashurst has rightfully terminated this Agreement, provided, however, that the foregoing shall not restrict Ashurst's right to sell or assign any Credits that are in addition to the Buyer Credits being acquired by Buyer hereunder, subject to Buyer's right of first refusal applicable to Additional Credits in accordance with Section 1.02 above.

2.05. Sale of Unusable Credits After Closing. Notwithstanding anything to the contrary in Section 1.08, which applies prior to closing, in the event that for any reason it becomes infeasible for Buyer to use the Buyer Credits purchased by Buyer to mitigate Project impacts thereby creating "Unusable Credits," Ashurst agrees to use commercially reasonable efforts to sell the Unusable Credits for the highest possible price to purchasers other than Buyer as quickly as reasonably possible. If Ashurst is able to sell the Unusable Credits in an arms-length transaction with an unaffiliated entity with no buy-back provision at a price per Buyer Credit that is greater than the price per Buyer Credit established by this Agreement, then Ashurst shall pay to Buyer at the closing of the resale one-half of the difference between the Unusable Credits resale price and what the sales price would have been had the Unusable Credits been sold at the Purchase Price for Buyer Credits set forth in this Agreement; provided, however, that Ashurst shall first be entitled to recover from the resale proceeds all reasonable legal fees, marketing costs, and other reasonable costs incurred in connection with the resale of the Unusable Credits. The foregoing one-half of the difference in the resale price for Unusable Credits and the sales price for Buyer Credits established by this Agreement shall be calculated based on the portion of the resale proceeds remaining after such costs have been reimbursed to Ashurst.

ARTICLE 3.
MISCELLANEOUS

3.01. Termination Right.

A. Buyer's Right to Terminate. Buyer shall have the right to terminate this Agreement pursuant to section 1.03(B)(ii), in which case Buyer's Deposit (together with interest accrued thereon) shall be returned to Buyer and Buyer shall have no obligations under this Agreement notwithstanding any other provision hereof. In addition, subject to the provisions of this Agreement governing Buyer's loss of the Deposit (together with any interest thereon) including sections 1.07(B) and 3.01(B), Buyer shall not be obligated to proceed with the purchase of the Buyer Credits or pay the Purchase Price Balance in the event that it is not possible for Buyer implement the Project, and Ashurst's sole remedy shall be retention of the Deposit (and any interest thereon) as liquidated damages, and thereafter neither Ashurst nor Buyer shall have any further rights or obligations hereunder.

B. Ashurst's Right to Terminate. If Buyer fails to pay to Ashurst the Deposit as and when required hereunder, or if Buyer fails to proceed with the purchase of the Buyer Credits on or before the Outside Closing Date despite the Resource Agencies' approval of the Bank, and release, sale, and transfer to Buyer of the Buyer Credits, and such failure remains uncured for ten (10) business days after Buyer's receipt of written notice from Ashurst of such failure, then Ashurst shall have the right to immediately terminate this Agreement by sending written notice of termination to Buyer, and in the event of such termination Ashurst shall be entitled to retain the Deposit previously paid by Buyer to Ashurst as liquidated damages in accordance with Section 1.07 above, and thereafter neither Ashurst nor Buyer shall have any further rights or obligations hereunder.

3.02. Limitation on Liability. Notwithstanding any other provision of this Agreement, in no event will Ashurst or Buyer be liable to the other party for any indirect, consequential or incidental damages, or loss of profits or loss of goodwill, regardless of whether Ashurst or Buyer has been informed of the possibility of such damages or is negligent, and whether or not such damages were reasonably foreseeable. This Agreement does not inure to the benefit of any third parties.

3.03. Attorneys' Fees. The Buyer and Ashurst shall bear their own costs and attorneys' fees incurred in connection with this Agreement.

3.04. Captions. All section captions used in this Agreement are for reference only and shall not be considered in interpreting the provisions of this Agreement.

3.05. Time of Essence. Time is of the essence of this Agreement and of the sale provided for herein.

3.06. Integration. This Agreement contains the entire agreement of Buyer and Ashurst, merging and superseding any and all prior written or oral agreements between

them concerning the subject matter contained herein, and Buyer and Ashurst hereby release each other from any and all rights, obligations and claims under such prior agreements. The Recitals first set forth above are hereby incorporated into this Agreement as part of the terms and provisions hereof. Notwithstanding that the Closing Agreement required to be executed by the Bank Agreement contains an integration clause and will be executed after the date of this Agreement, this Agreement is not intended to merge into the Closing Agreement, and this Agreement shall continue in effect with and after the delivery of the Closing Agreement, unless this Agreement is otherwise terminated in accordance with its terms and conditions.

3.07. Additional Documents. From time to time prior to and after the Closing Date, Buyer and Ashurst shall execute and deliver such instruments of transfer and other documents as may be reasonably requested by the other party to carry out the purpose and intent of this Agreement.

3.08 Notice. All notices, demands, requests, elections, approvals, disapprovals, consents or other communications which this Agreement contemplates, requires or permits either Buyer or Ashurst to give to the other shall be in writing and shall be personally delivered, transmitted by email, or sent by first class, or certified mail, return receipt requested, addressed to the respective parties, as follows:

Buyer: San Luis & Delta-Mendota Water Authority
15990 Kelso Road
Byron, CA 94514-9614
E-mail: pablo.arroyave@sldmwa.org

Ashurst: Ashurst Ranch, LLC
5700 E Clarkson Ave
Selma, CA 93662
E-mail: scott@scottravenfarms.com

Anthony Lombardo and Associates
144 West Gabilan Street
Salinas, CA 93901
E-mail: tony@alombardolaw.com

or to such other address or email as Buyer or Ashurst may from time to time designate by notice to the other party given in accordance with this section. Personally delivered notice shall be deemed delivered upon the delivery thereof; notice transmitted by email shall be deemed delivered upon sending provided that the sender has a confirmation of such transmission and deposits in the United States mail on the same day a copy of such notice by first-class mail, otherwise upon the receiving party's receipt of such mailing; and mailed notice shall be deemed delivered upon the earlier of (i) receipt or (ii) 72 hours after deposit thereof in the United States mail.

3.09 No Recordation. Buyer and Ashurst agree that neither this Agreement nor any memorandum thereof shall be recorded by either party.

3.10 Assignment or Subsequent Transfers. Neither Buyer nor Ashurst shall assign, transfer, or convey rights and/or obligations under this Agreement without the prior written approval of the other. Any attempted assignment which is subject to the other party's approval and which is not approved by the other shall be deemed in default hereunder.

3.11 Buyer Project Coordination. Ashurst may enter into separate agreement(s) with project partner Reclamation to reserve and buy mitigation credits that satisfy permit requirements for the Buyer Project. Buyer intends to coordinate and cooperate with Reclamation to the extent practicable to ensure the Buyer Project retains all necessary mitigation credits for the successful operation of the Buyer Project into perpetuity.

3.12 Amendments. This Agreement may not be amended, altered or modified except by mutual written consent of the Parties.

3.13 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors, and assigns of Buyer and Ashurst.

3.14 Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect.

3.15 Counterparts; Electronic/Facsimile Signatures. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. An electronic email copy or facsimile of a duly executed copy of this Agreement shall be deemed for all purposes as receipt of an originally signed document, and any such copy bearing an electronic email copy or facsimile signature shall be binding upon, and enforceable against, the party to be charged thereby.

3.16 Waiver. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future right to enforce such provision or any other provision hereof.

3.17 Governing Law. This Agreement shall be construed in accordance with, and be governed by, the laws of the State of California.

3.18 No Obligations to Third Parties. No party shall be deemed to be a third party beneficiary of this Agreement, nor shall this Agreement confer any rights upon, nor obligate any of the parties hereto, to any person or entity other than the parties to this Agreement.

3.19 Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed by Buyer or Ashurst to create a relationship of principal and agent, partnership, joint venture, or any other association between Buyer and Ashurst.

3.20 Confidentiality. Buyer acknowledges that the price of Conservation Bank credits is confidential and will not disclose the price of credits to a third party, with the exception of project partner Reclamation, except as required to obtain funding for the purchase of credits or to comply with the California Public Records Act.

IN WITNESS WHEREOF, Buyer and Ashurst have executed this Agreement as of the date first set forth above.

BUYER:

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

By: _____

Name: _____

Title: _____

ASHURST:

By: _____

Name: _____

Title: _____



NON-COMPETITIVE (SINGLE SOURCE) PROCUREMENT JUSTIFICATION FORM

Item/Service for single source procurement: Purchase of Mitigation Credits for BF Sisk Reservoir Expansion

Selected vendor for the single source procurement: Ashurst Ranch Phase 1

Total Amount of Procurement including taxes: \$5,131,500

Specification Number: _____

For any non-competitive (single source) procurement (except Professional services) over \$60,000, the Project Manager must complete this form and return it to the Procurement Department for review and procurement authorization. Attach additional pages of explanation if necessary. **A SINGLE SOURCE PROCUREMENT MAY NOT PROCEED UNTIL THE REQUIRED SIGNATORIES SIGN THIS FORM.** **NOTE:** For procurements below the Delegation of Authority threshold of \$200,000.00, Board approval is NOT required prior to award and can be approved by the Executive Director or COO. The Board must be notified promptly following award.

Section 1: Is this an emergency?

☐ Yes ☒ No (Skip to Section 2)

If yes, explain in detail below and no further Sections are required. If over the Delegation of Authority threshold of \$200k, a separate memo documenting the decision shall be prepared by the Project Manager for Board notification/approval.

Note: "Emergency" shall mean a sudden, unexpected occurrence that poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property, or essential public services.

Explanation:

Section 2: Identify Type of Procurement

☒ Goods, Supplies, Equipment (See section 3)

☐ Non-Professional Services (See section 4)

☐ Construction (See section 5)

Section 3: Goods, Supplies, Equipment (See Section 2.3 in Procurement Policy)

1. Identify the most applicable criteria below, and provide detailed support in explanation area below
 - ☐ i. A specified product is necessary to match or interface with other products in use by the Authority
 - ☐ ii. The Authority needs to purchase a specified product to field test or experiment to determine the products suitability for future use.
 - ☒ iii. Only one product will meet the Authority's needs.

Explanation:

Please refer to the attached Memorandum to file dated September 25, 2026 which contains a detailed explanation.

2. Is the product available from only one source? (To qualify for a single source, the product must be available from only one source)

☒ Yes ☐ No

Please explain how this determination was made. Note: Reasonable steps should be taken to confirm that the goods or supplies are purchased at a fair price. Include in explanation below.

Explanation:

Please refer to the attached Memorandum to file dated September 25, 2026 which contains a detailed explanation.

Section 4: Non-Professional Services (See Section 3.1(b) in Procurement Policy)

Identify the most applicable criteria below and provide detailed support in explanation below.

- ☐ i. That only one firm or individual has the specialized expertise or experience necessary to perform the services, and other potential bidders cannot develop that experience or expertise prior to contract award.
- ☐ ii. The continuity of services is required to avoid risk of substantial loss or added expenditure to the Authority

Explanation:

Section 5: Construction (See Section 4.6 of the Procurement Policy)

Please identify ONE of the applicable justifications below by checking and providing explanation.

NOTE: If neither of the below circumstances exist, but the Executive Director or Chief Operation Officer recommends single-source construction contracting, then single source contracting may be used only following Board findings of circumstances indicating that competition does not exist and approval of single-source negotiations. CANNOT BE USED FOR PROJECTS UTILIZING FEDERAL FUNDS.

- ☐ 1. Where (i) a specified product is required, applying standards and (ii) only one contractor is authorized by the manufacturer or supplier to install the specified product, and (iii) the work for which only a single-source contractor is authorized and not work which reasonably would be expected to be subcontracted.
- ☐ 2. The Authority has conducted a competitive procurement for substantially similar construction services in the past five (5) years and only one actual or potential bidder for the services was identified.

Explanation:

3. If neither of the above apply, please provide an explanation to the Board as to why the Board should approve this Single-Source procurement.

Explanation:

Completed and Requested By:

Project Manager: _____

Date: _____

Department Manager: _____

Date: _____

Reviewed By:

By: _____

☐ Reviewed

Christine Melton, Procurement and Warehouse Supervisor

Date: _____

By: _____

☐ Approved ☐ Denied

J. Scott Petersen, Chief Strategic and Administrative Officer

Date: _____



Official Memorandum

PO Box 2157
Los Banos, CA 93635
sldmwa.org

To: FILE

From: San Luis & Delta-Mendota Water Authority Staff

Date: September 25, 2026

RE: Single Source Procurement Justification for Reservation Agreement with Ashurst Ranch
Conservation Bank Phase 1

1. Purpose

This memorandum documents the basis for a single source procurement determination supporting execution of a Reservation Agreement for Purchase, Sale, and Transfer of Mitigation Credits from Ashurst Ranch Conservation Bank Phase 1 for the B.F. Sisk Dam Raise and Reservoir Expansion Project (Project). It is intended to support the written findings required by the San Luis & Delta-Mendota Water Authority (Water Authority) procurement policy for a contract awarded without a competitive solicitation.

2. Project and Regulatory Background

The Project is advancing mitigation required under the December 5, 2022, U.S. Fish and Wildlife Service biological opinion (BiOp) and the California Department of Fish and Wildlife draft incidental take permit (ITP). Based on review of a draft ITP, the Water Authority anticipates that the ITP will require 1,393.47 acres for San Joaquin kit fox (SJKF), 1,128.63 acres for California tiger salamander (CTS) upland habitat, and 7.02 acres for CTS aquatic habitat. Because mitigation purchased for federal Endangered Species Act compliance can also satisfy state requirements, the Water Authority transaction is structured to reserve the additional 248.47 SJKF/CTS upland credits and 7.02 CTS aquatic credits beyond the quantities addressed in the U.S. Bureau of Reclamation's (Reclamation) separate proposed acquisition, with the possibility to purchase additional credits.

3. Market Review and Required Capabilities

The Water Authority and Reclamation researched available mitigation credits and banks whose service areas encompass the Project. The review used the Regulatory In-Lieu Fee and Bank Information Tracking System (RIBITS), evaluated 12 approved mitigation banks, and considered several banks anticipated for future approval. The screening focused on the availability, quantity, and compatibility of SJKF, CTS, and California red-legged frog (CRLF) credits, including upland and aquatic CTS credits and the ability to stack credits so that one acre may satisfy more than one species obligation.



4. Documented Bank Comparison

Conservation Bank	Owner / Sponsor	SJKF Acres	CRLF Acres	CTS Acres	Availability Notes
Piedra Azul #2	Westervelt	1,195.78	756.79	0	No CTS credits available; does not provide the full required credits.
Buck Ridge	Westervelt	0	0	531.14	CTS credits available, but no SJKF credits.
Big Gun	Westervelt	0	15.68	0	No required credits available.
Sparling Ranch	South Bay Conservation	0	103.95	103.95	CTS credits available, but no SJKF credits and quantities do not meet the full requirement.
Sparling Ranch Phases 2/3	South Bay Conservation	0	2,000	2,000	CTS credits available, but no SJKF credits.
Ashurst Ranch Phase 1*	Ashurst Ranch Mitigation Bank, LLC	1,393.47	1,051	7.02	Only prospective bank with all three required species credits. Additional benefits include fixed pricing and stacked-credit potential.

*California Department of Fish and Wildlife approval not received.

Data as of March 2026

5. Findings

The compared banks do not provide the complete combination of required SJKF, CTS, and CRLF credits. Ashurst Ranch Phase 1 is the only identified bank with the potential to satisfy all three credit categories and offers aquatic habitat, fixed pricing, surplus availability, and stacked-credit opportunities. The proposed bank is approximately 14,269 acres in San Benito County, north and south of New Idria Road, southeast of Panoche.

6. Basis for Single Source Procurement

Based on the documented market review, Ashurst Ranch Phase 1 is the only identified source capable of supporting a unified acquisition strategy for all required credit categories and quantities. Although the Water Authority could purchase credits from different sources, the pricing for alternative sources varied significantly, from \$15,000 to \$37,000 per credit for a single species, and the inability to stack credits would significantly increase the cost to the Water Authority.



A competitive solicitation would not change the underlying inventory and credit-type limitations shown in the market review. The procurement therefore meets the policy basis for a single source award because only one available source can reasonably meet the Water Authority's needs.

7. Proposed Transaction

Under the proposed Reservation Agreement, the Water Authority would reserve 248.47 SJKF/CTS upland credits and 7.02 CTS aquatic credits at \$15,000 per upland credit and \$200,000 per aquatic credit, for a maximum authorized expenditure of \$5,131,050. The agreement would secure the credits needed to address the Water Authority's anticipated state requirement for the Project's mitigation obligations, while Reclamation is negotiating a separate reservation agreement for the remaining compensatory mitigation associated with the BiOp and draft ITP.

8. Price Reasonableness

The Water Authority, Reclamation, and the consultant team took reasonable steps to confirm that the proposed credit pricing is fair and reasonable under the circumstances. Staff reviewed available mitigation-bank options within the Project service area, compared available credit types and quantities, and confirmed that the documented alternatives did not provide the complete package of SJKF, CTS, CRLF, and aquatic habitat credits needed to support the Project's regulatory obligations. The Project Team also considered the specialized and constrained nature of the mitigation-credit market, the limited availability of aquatic CTS credits, the benefit of securing fixed pricing through a reservation agreement, and the potential cost efficiency associated with stacked-credit use. In addition, Reclamation's parallel negotiation for the remaining Project mitigation provides an additional reasonableness check on the pricing and transaction structure. Based on these considerations, the proposed pricing of \$15,000 per upland credit and \$200,000 per aquatic credit appears fair and reasonable for the credit types, quantities, timing, and regulatory certainty required by the Project.