



MEMORANDUM

TO: SLDMWA Board of Directors, Alternates

FROM: Pablo Arroyave, Chief Operating Officer
Joe McGahan, Drainage Coordinator,
Rebecca Akroyd, General Counsel

DATE: April 2, 2021

RE: Adoption of Resolution Authorizing Execution of Agreement with Panoche Drainage District for the Provision of O&M Activities on the San Luis Drain for Purposes of the Grassland Bypass Project

BACKGROUND

The Water Authority previously entered into agreements with Panoche Drainage District (“PDD”), which authorized PDD to provide specified operation and maintenance (“O&M”) services for the conveyance facilities for the Grassland Bypass Project, including on specific portions of San Luis Drain. The Water Authority Board first authorized execution of such an agreement in 1996, via Resolution No. 1996-138, and then execution of an addendum to the 1996 agreement in 2002, via Resolution No. 2002-200.

The Water Authority and PDD have both continued to perform certain portions of O&M activities on the San Luis Drain. They now desire to supersede the 1996 agreement and 2002 addendum, and continue the arrangement where PDD provides enumerated O&M activities for that portion of the San Luis Drain that is used for purposes of the Grassland Bypass Project Long-Term Storm Water Management Plan, while the Water Authority provides other administrative and O&M activities for the San Luis Drain.

ISSUE FOR DECISION

Whether the Board should adopt the Resolution Authorizing Execution of Agreement with Panoche Drainage District for the Provision of O&M Activities on the San Luis Drain for Purposes of the Grassland Bypass Project.

RECOMMENDATION

Staff recommends adoption of the proposed Resolution.

ANALYSIS

Since 1992, the Water Authority has been responsible to the United States, Department of the Interior Bureau of Reclamation (“Reclamation”) for providing specified baseline operation and

maintenance services (“Baseline O&M Activities”) on the federally-owned San Luis Drain under a series of agreements and performance work statements. Most recently, the Authority entered into that certain Agreement between the United States of America and San Luis & Delta-Mendota Water Authority to Transfer the Operation, Maintenance and Replacement and Certain Financial and Administrative Activities Related to the San Luis and Delta-Mendota Canals, C.W. “Bill” Jones Pumping Plant, Delta-Mendota Canal/California Aqueduct Intertie Pumping Plant, O’Neill Pumping/Generating Plant, San Luis Drain and Associated Works, Contract No. 8-07-20-X0354-X (the “Transfer Agreement”), which requires the Authority to operate and maintain certain enumerated Project Works, including the San Luis Drain.

The Baseline O&M Activities for the San Luis Drain have not been updated over the years and are currently described in items 1 through 5 of Section 5.7.1 of Exhibit D to the Transfer Agreement. Section 5.7.1 of Exhibit D to the Transfer Agreement also provides that “the Authority shall have no obligation to provide operation or supplemental maintenance functions for any segments of the San Luis Drain for which a use agreement has been entered,” wherein “Supplemental Maintenance” is defined as “any maintenance, including panel or lining replacement, necessary for maintenance of the Drain as a useable facility pursuant to a use agreement, and includes but is not limited to maintenance of any facilities modifying, added to or related to the San Luis Drain which may be constructed or installed pursuant to any use agreement.”

Since 1995, the Authority has entered into a series of “Use Agreements” with the United States of America for use of that portion of the San Luis Drain between Check 19 (Milepost 105.72) and the terminus of the San Luis Drain, including most recently, that certain Use Agreement for the Grassland Bypass Project Long-Term Storm Water Management Plan, Contract No. 20-LC-20-2605-A (“Use Agreement”). The Authority has entered into the Use Agreements for the benefit of its members and Participating Parties participating in the Grassland Bypass Drainage Management Activity Agreement, including Camp 13 Drainage District, Charleston Drainage District, Firebaugh Canal Water District, Pacheco Water District, and PDD.

The 1996 agreement and 2002 addendum provide the current rubric for PDD to perform O&M on the San Luis Drain for the benefit of Activity Agreement members. However, the Water Authority and PDD now desire to update the list of O&M Activities that PDD will perform, and supersede the prior agreements in doing so.

BUDGET

No change in budget implications. The costs associated with PDD’s provision of O&M Activities will continue to be paid for by Grassland Basin Drainage Management Activity Agreement Members.

ATTACHMENTS

1. Proposed Resolution

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2. Agreement with Panoche Drainage District for the Provision of O&M Activities on the San Luis Drain for Purposes of the Grassland Bypass Project, including attachments
3. Resolution No. 2002-200
4. Resolution No. 1996-138

DRAFT

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

RESOLUTION NO. 2021-

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENT WITH PANOCHE DRAINAGE DISTRICT FOR THE PROVISION OF O&M ACTIVITIES ON THE SAN LUIS DRAIN FOR PURPOSES OF THE GRASSLAND BYPASS PROJECT

WHEREAS, the Board of Directors of the San Luis & Delta-Mendota Water Authority (the “Board” and the “Water Authority,” respectively), previously adopted resolutions approving the Grassland Basin Drainage Management Activity Agreement (the “Activity Agreement”) and execution of the Agreement for Use of the San Luis Drain (the “Use Agreement”) for and behalf of Water Authority members who participate in the Activity Agreement; and

WHEREAS, the Board by Resolution No. 1996-138 previously authorized execution of an agreement with Panoche Drainage District to provide operation and maintenance (“O&M”) services for the conveyance facilities for the Grassland Bypass Project (“1996 Agreement”); and

WHEREAS, the Board by Resolution No. 2002-200 previously authorized execution of that certain Addendum to Agreement Between the San Luis & Delta-Mendota Water Authority and the Panoche Drainage District for the Provision of Supplemental O&M Activities on the San Luis Drain for Purposes of the Grassland Bypass Channel Project (“2002 Addendum”); and

WHEREAS, the Water Authority and Panoche Drainage District have both continued to perform certain portions of O&M activities on the San Luis Drain, and now desire to supersede the 1996 Agreement and the 2002 Addendum, and continue the arrangement where Panoche Drainage District provides enumerated O&M activities for that portion of the San Luis Drain that is used for purposes of the Grassland Bypass Project Long-Term Storm Water Management Plan, while the Water Authority provides other administrative and O&M activities for the San Luis Drain; and

WHEREAS, the Steering Committee of the Grassland Basin Drainage Management Activity Agreement has recommended that the Board adopt the “Agreement for the Provision of O&M Activities on the San Luis Drain for Purposes of the Grassland Bypass Project” (“2021 Agreement”) in substantially the form presented, subject to such additions, deletions, and revisions as are approved by the executing officers prior to execution, said execution to provide conclusive evidence of such approval.

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. Executive Director Federico Barajas is hereby authorized and directed, for and behalf of the Water Authority acting for the benefit of the Grassland Basin Drainage Management Activity Agreement Members, to execute the 2021 Agreement in substantially the

form presented to the Board and on file with the Secretary hereof, subject to such additions, deletions, and revisions as may be approved by the executing officer, said execution to provide conclusive evidence of said approval.

PASSED, APPROVED AND ADOPTED this [REDACTED] day of April, 2021, by the Board of Directors of the San Luis & Delta-Mendota Water Authority.

Cannon Michael, Chairman

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

Attest:

Federico Barajas, Secretary

I hereby certify that the foregoing Resolution No. 2021- 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 ___th day of April, 2021.

Federico Barajas, Secretary