

**AGREEMENT BETWEEN THE STATE OF MONTANA AND THE CONFEDERATED
SALISH AND KOOTENAI TRIBES OF THE FLATHEAD INDIAN RESERVATION
REGARDING ARTICLE VI.A.1.d STATE COMPACT CONTRIBUTIONS**

This Agreement is entered into between the State of Montana (the “State”) and the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation (“CSKT”). As used herein, “Parties” refers to the State and CSKT.

PREAMBLE

WHEREAS the Parties have negotiated a water rights compact (“Compact”), which was ratified by the Montana Legislature on April 24, 2015 (codified at §§ 85-20-1901 and -1902, MCA), by the United States Congress pursuant to the Montana Water Rights Protection Act Public Law No. 116-260, Dec 27, 2020 (134 Stat. 1182, 3008), and by the CSKT Tribal Council by resolution on December 29, 2020;

WHEREAS pursuant to Article VI.A of the Compact, the State is obligated to contribute and has appropriated \$55 million for the purposes of implementation of the Compact;

WHEREAS pursuant to Article VI.A.1.d of the Compact, \$30 million of the State’s \$55 million contribution is allocated specifically “to offset pumping costs associated with Compact implementation and related projects;”

WHEREAS the purpose of this Agreement is to provide for the payment and implementation of the State’s \$30 million contribution under Article VI.A.1.d;

THEREFORE, THE PARTIES ENTER INTO THE FOLLOWING AGREEMENT:

SECTION 1. PURPOSE

The purpose of this Agreement is to set forth the general terms, definitions, and conditions governing the implementation of Article VI.A.1.d of the Compact. The Parties agree to cooperate as sovereigns under this Agreement.

SECTION 2. ESTABLISHMENT OF ACCOUNT

- A. The State shall transfer the sum of \$30 million pursuant to Article VI.A.1.d of the Compact to a short term investment pool (STIP) account on or before December 29, 2025 to be held in trust at the Montana Board of Investments (“BOI”). The Fund shall be administered as a separately managed account.
- B. The State’s authorized designee as set forth in Section 3.C may consult with BOI to create a separately managed account with investment objectives agreed to by the authorized designee and BOI, subject to the approval of the Governor’s Office of Budget and Program Planning (“OBPP”).

SECTION 3. DISBURSEMENTS FROM ACCOUNT

- A. Pursuant to Article VI.A.1.d of the Compact, all disbursements from the Fund shall be used solely to offset pumping costs associated with Compact implementation and related projects and for no other purpose. For purposes of determining pumping costs associated with Compact implementation and related projects, the Parties agree as follows:
1. "Pumping costs associated with Compact implementation and related projects" means increases in pumping costs and related projects, as compared to historical operations existing prior to Compact implementation, that occur as a result of activities authorized by the Compact or Section 7 of the Montana Water Rights Protection Act.
 2. "Project Operator" has the same definition as Article II.55 of the Compact;
 3. Pumping costs eligible for reimbursement or payment from the Fund include:
 - a. the cost of increased electrical power and wheeling charges for any Flathead Indian Irrigation Project ("FIIP") pumping plant operated by the Project Operator as a result of Compact implementation;
 - b. the cost of operating and maintaining FIIP pumps or pumping plants installed, rehabilitated, or replaced as a result of Compact implementation, including projects authorized in Appendix 3.6 (Rehabilitation and Betterment) of the Compact;
 - c. the cost of construction or maintenance of ditch improvements required to deliver a higher volume of water produced by the installation, rehabilitation, or replacement of pumps or pumping plants authorized under the Compact that are not otherwise funded under the Compact;
 - d. the cost of implementing pump or pumping plant efficiencies or adaptive management practices to fulfill FIIP delivery assurances contained in the Compact that are not otherwise funded under the Compact; and
 - e. such other pumping costs associated with Compact implementation and related projects agreed upon by the Parties.
- B. Unless otherwise agreed by the Parties, disbursements shall be made from the Fund's income and not from principal. At the State's discretion, any income remaining in the Fund at the end of the State's fiscal year that has not been distributed or obligated for distribution may be:
1. partially or wholly reinvested into principal, or

2. partially or wholly deposited into a pumping cost reserve fund created by the State from which future disbursements may be made for payment or reimbursement of eligible pumping costs.
- C. The State designates the Director of the Montana Department of Natural Resources as its authorized designee with authority to review and approve task orders and disbursements from the Fund in accordance with this Agreement and the Compact. The State may establish policies and procedures to govern the manner in which the authorized designee may act on its behalf. The State may change its authorized designee upon 30 days written notice to CSKT.
- D. To request payment or reimbursement of eligible pumping costs, the Project Operator shall submit task orders or invoices to the State's authorized designee on forms prepared by the State describing and documenting eligible pumping costs on an annual or more frequent basis. The State shall notify the Project Operator of its denial or approval of a claim within 60 days of receipt of the claim. All authorized disbursements shall be made to the Project Operator.
- E. Any fee and charges upon the Fund shall be paid from the Fund and allocated between income and principal in accordance with generally accepted accounting principles. BOI may from time-to-time change and modify its fees and charges consistent with Montana law.
- F. The State shall provide to CSKT annual reports of the income, expenses, and disbursements of the Fund for the State fiscal year ending June 30 on or before September 1 of each year.

SECTION 4. PROPERTY ACQUISITION AND DISPOSITION

No real property or capital equipment may be acquired in whole or in part by the Fund.

SECTION 5. AMENDMENT

This Agreement may only be amended upon the mutual written consent of the Parties.

SECTION 6. EFFECTIVE DATE; TERMINATION

- A. This Agreement becomes effective when signed by both Parties.
- B. This Agreement may only be terminated:
 - a. upon the mutual written consent of the Parties;
 - b. upon final distribution of the Fund;
 - c. by order of a court of competent jurisdiction in a judicial proceeding initiated by either Party as a result of a material breach of the other Party that has not been remedied within 60 days of written notice of the breach; or

- d. Upon withdrawal by a Party from the Compact as provided in the Compact prior to the final disbursement of the Fund.
- C. In the event of termination, all amounts in the Fund, including any undistributed income, shall revert to the State unless otherwise agreed upon between the Parties or ordered by a court of competent jurisdiction.

SECTION 7. SERVICES OF NOTICES

All written notices, reports, and other information required to be exchanged between the Parties will be sent as follows:

If to State: Director, Department of Natural Resources and Conservation
1539 Eleventh Ave.
Helena, MT 59601

With a copy to: Governor's Office of Budget and Program Planning
PO Box 200802
Helena, MT 59620

If to CSKT: Confederated Salish and Kootenai Tribes
P.O. Box 278
Pablo, Montana 59855

The Parties may provide by written notice updated mailing addresses.

SECTION 8. CHOICE OF LAW AND REMEDIES

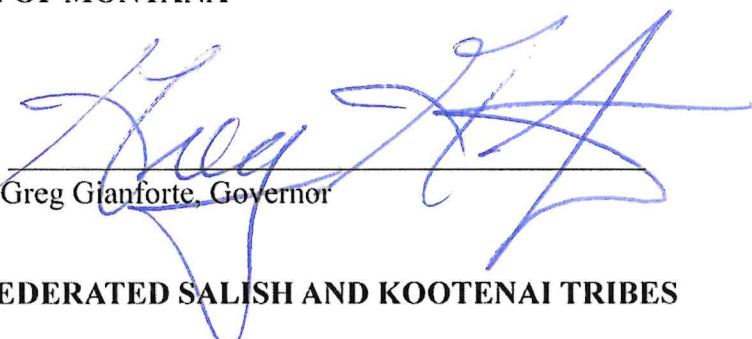
- A. This Agreement shall be governed and interpreted according to applicable federal laws and regulations, and applicable laws and regulations of the CSKT and the State.
- B. The Parties agree to first meet and confer for the purpose of resolving any disputes that may arise under this Agreement.
- C. If resolution is not possible, the parties agree and stipulate that venue for enforcement of the terms hereof lies in a court of competent jurisdiction.
- D. In the event of a dispute with regard to this Agreement, each Party agrees to continue performance under this Agreement unless the other party explicitly waives performance in writing.
- E. Any remedies provided by this Agreement are not exclusive and are in addition to any other remedies provided by law.

SECTION 9. LIMITING DECLARATION


- A. This Agreement has been entered into to set forth the terms, definitions, conditions, and responsibilities of the Parties with regard to the matters described in this Agreement. It is not intended to reflect, or be viewed as reflecting in any other context, any Party's position with respect to the jurisdictional authority of the other. Nothing in this Agreement or in any conduct undertaken pursuant thereto shall be deemed as enlarging or diminishing the jurisdictional authority of either Party. Neither this Agreement, nor conduct pursuant thereto, shall be offered as evidence, otherwise referred to in any present or future litigation unrelated to the subject matter of the Agreement, or used to further either Party's equitable or legal position in any litigation unrelated to the subject matter of the Agreement. Each Party reserves all rights, arguments, and defenses that are available to it under the law, and nothing in this Agreement shall be interpreted or construed as an express or implicit waiver of any such right, argument, or defense, except as provided above.
- B. The Parties agree that their respective agreements and obligations set forth herein are solely for the benefit of the Parties to this Agreement. Nothing in this Agreement is intended to, and does not, confer upon any person, entity, government, or political subdivision of any Party other than the Parties to this Agreement any benefits, rights, or remedies under or by reason of, or any rights to enforce of cause either Party to enforce, the obligations set forth herein.

The Parties through their authorized agents have executed this Agreement on the dates set out below:

STATE OF MONTANA

By:  12/9/2025
Greg Gianforte, Governor Date

CONFEDERATED SALISH AND KOOTENAI TRIBES

By:  12-9-25
Michael Dolson, Chairman Date

APPROVED as to legal sufficiency and pursuant to § 18-11-105, MCA:

Austin Knudsen, Attorney General

Date