



Topic: **Reservoir Committee Agenda Item 3-2** **2018 Aug 16**

Subject: **Phase 2 Project Agreement**

Requested Action:

Discussion followed by consideration to approve the Phase 2 Reservoir Project Agreement (Agreement) and approving a recommendation to the Sites Project Authority Board of Directors to approve the Agreement and authorize submittal to the governing body for each participant in the Phase 1 Reservoir Committee for their consideration and action and make this Agreement available to others who may be interested in participating in Phase 2¹.

Detailed Description/Background:

- **Agreement:** The Sites Project Authority's Bond Counsel (Stradling, Yocca Carlson & Rauth) in coordination with the joint Authority's Ad Hoc Budget and Finance Committee and Reservoir Committee's Ad Hoc Finance & Economics Work Group (Joint Finance Group), the Authority's Independent Financial Advisor (Montague DeRose) staff, and legal counsel have developed a draft Phase 2 Reservoir Project Agreement (Agreement).

The Joint Finance Group has been meeting approximately every other week starting on June 7, 2018 to advance this Agreement (and to work on inter-related matters). At the August 6, 2018 Joint Finance Group's conference call, the participants recommended:

1. **Schedule:** No time extension is needed to release the Phase 2 Reservoir Project Agreement and the end-of-year completion schedule should not be extended.
2. **"Stepped" Finance:** Regarding requests to create a potential off-ramp at the end of Phase 2A, which is currently in year 2020, structure the Agreement such that at the end of Phase 2A, should no participants request to change their participation, Phase 2B would commence without requiring formal action.

And, the lender RFP be structured to request proposals for interim financing provide both a single transaction for the duration of Phase 2 or two transactions for each of Phases 2A and 2B (refer to Agenda Item 3.3).

3. **Improvement Districts:** It is likely that more than one participant plans to create an Improvement District to allow partial participation within their service area. The current Agreement is written to disclose this likelihood for the benefit of other participants.

¹ Subject to executing a non-disclosure agreement.

4. Agreement Status: The Reservoir Committee consider approving the Phase 2 Reservoir Project Agreement and recommend to the Authority they too consider approving the release of this Agreement.
- Authority's Updates to Bylaws: At the August 20, 2018 Authority Board of Directors meeting, they will consider approving amendments to the Bylaws that are needed to (1) enable the Phase 2 Reservoir Project Agreement to be approved, (2) update to reflect to reflect the needs during Phase 2, and (3) improve compliance regarding role of the Treasurer and to clarify expectations including those of an "Associate Member".
 - Participation: Provide a status of likely changes in participation

Context: Proposition 1 requires that a project receiving state funding have 75% of the water supply (non-Proposition 1-eligible) by *Jan 1, 2022* (CCR Title 23, Division 7 (WSIP), 6013(f)(2)(C)) with 100% at the time the State's funds are encumbered.

Prior Reservoir Committee Action:

On July 20, 2018, the Reservoir Committee approved the Phase 2 Work Plan for limited uses; one of which included preparing a synthesis to be used as an Exhibit to this Agreement.

This item builds from the July 9 and 10, 2018 joint Authority and Reservoir Committee Workshops and incorporates input received during meetings with individual Reservoir Committee participants.

Fiscal Impact/Funding Source:

None

Staff Contact:

Jim Watson

Attachments:

Attachment A: Phase 2 Reservoir Project Agreement (without Exhibit B)

Attachment B: Exhibit B (Project Description and Summary Work Plan)

SITES PROJECT AUTHORITY

PHASE 2 RESERVOIR PROJECT AGREEMENT

DATED AS OF DECEMBER 1, 2018

BY AND AMONG

SITES PROJECT AUTHORITY

AND

THE PROJECT AGREEMENT MEMBERS LISTED HEREIN

TABLE OF CONTENTS

Section 1	Definitions.....	2
Section 2	Purpose.....	4
Section 3	Reservoir Project Committee	4
Section 4	Funding	6
Section 5	Authorization to Issue or Incur Phase 2 Obligations	6
Section 6	Financing Terms	7
Section 7	Participation Percentages	10
Section 8	Future Development of the Sites Reservoir Project.....	11
Section 9	Obligation in the Event of Default.....	12
Section 10	Indemnity and Contribution	13
Section 11	Term.....	14
Section 12	Withdrawal From Further Participation.....	14
Section 13	Admission of New Project Agreement Members	15
Section 14	Amendments	15
Section 15	Assignment; Binding on Successors	15
Section 16	Third Party Beneficiaries	16
Section 17	Counterparts.....	16
Section 18	Merger of Prior Agreements	16
Section 19	Severability	16
Section 20	Choice of Law.....	16
Section 21	Notices	16
EXHIBIT A	PROJECT AGREEMENT MEMBERS	A-1
EXHIBIT B	PHASE 2 PROJECT DESCRIPTION AND SUMMARY WORK PLAN	B-1
EXHIBIT C	INITIAL PHASE 2 OBLIGATION TERM SHEET	C-1
EXHIBIT D	ALLOCATION OF PRINCIPAL OF INITIAL PHASE 2 OBLIGATIONS.....	D-1
EXHIBIT E	STEP-UP PROJECT AGREEMENT MEMBERS.....	E-1
EXHIBIT F	NOTIFICATIONS	F-1
EXHIBIT G	FORM OF OPINION OF PROJECT AGREEMENT MEMBER COUNSEL	G-1
EXHIBIT H	FORM OF OPINION OF AUTHORITY SPECIAL COUNSEL.....	H-1
EXHIBIT I	FORM OF PROJECT AGREEMENT MEMBER DIRECTION TO AUTHORITY TO PROVIDE COPY OF BILLING STATEMENT TO DWR.....	I-1

THIS PHASE 2 RESERVOIR PROJECT AGREEMENT is made effective as of _____, 2018, by and among (a) the Sites Project Authority (the “**Authority**”) and (b) certain Members and/or Non-Member Participating Parties, listed on the attached **Exhibit A** and is made with reference to the following facts:

RECITALS

A. Various public agencies in the Sacramento River Watershed created the Authority in 2010. Various public agencies in the Sacramento River Watershed, including certain Project Agreement Members, previously entered into the Fourth Amended and Restated Sites Project Authority Joint Exercise of Powers Agreement, dated November 21, 2016, pursuant to which they are developing the Sites Reservoir Project, which is contained in the CalFed Bay-Delta program Programmatic Record of Decision, August 28, 2000. The Joint Powers Agreement provides a mechanism for “Project Agreements” (as defined in the Joint Powers Agreement) to undertake specific work activities for the development of the Sites Reservoir Project. On _____, 2018, the Authority’s Board of Directors also adopted [Bylaws for Phase 2 of the Sites Reservoir Project,] which also address Project Agreements and their management through Reservoir Project Committees.

B. On April 11, 2016, certain Authority Members of the Authority entered into the PHASE 1 RESERVOIR PROJECT AGREEMENT which was amended and restated as of November 21, 2016.

C. The Authority and certain Project Agreement Members have undertaken a process to negotiate a Phase 2 Reservoir Project Agreement to undertake specific work activities to [complete certain permitting and other activities] and to provide for the issuance of bonds, notes or other evidence of indebtedness of the Authority to pay such Phase 2 costs.

D. The Project Agreement Members wish to undertake the Phase 2 Project pursuant to a Work Plan approved by the Authority on _____, 2018 and the Reservoir Project Committee on _____, 2018 and a summary of which is described in **Exhibit B** attached hereto. The Phase 2 Project will be undertaken in the name of the Authority and in accordance with the Authority’s stated Mission as set forth in the fourth Recital of the Joint Powers Agreement. The Project Agreement Members are entering into this Project Agreement to satisfy the requirements of Article VI of the Joint Powers Agreement.

E. All members of the Authority have also been given the opportunity to enter into this Project Agreement. The form of this Project Agreement was determined to be consistent with the Joint Powers Agreement and the Bylaws and approved by the Authority’s Board of Directors on August __, 2018.

F. The Authority and the Project Agreement Members acknowledge that one of the Authority’s goals, in addition to providing environmental benefits, is to develop and make both a water supply and storage capacity available to water purveyors and landowners within the Sacramento River watershed, and in other areas of California, who are willing to purchase either or both a water supply and storage capacity from the Sites Reservoir Project, and that the Project Agreement Members should have a preference to the water supply or storage capacity.

AGREEMENT

THEREFORE, in consideration of the facts recited above and of the covenants, terms and conditions set forth herein, the parties agree as follows:

Section 1 Definitions

“Authority” means the Sites Project Authority, a joint exercise of powers agency created pursuant to the Joint Powers Agreement.

“Authority Members” means the members of the Authority executing the Joint Powers Agreement, as such members may change from time-to-time in accordance with Section 3.3, Section 7.12 and Section 7.2 of the Joint Power Agreement.

“Board” means the Board of Directors of the Authority.

“Bond Trustee” means the entity or entities designated by the Authority pursuant to any Financing Document to administer funds or accounts required by such Financing Document or otherwise.

“Bylaws” means the [Bylaws for Phase 2 of the Sites Reservoir Project] adopted by the Authority on _____, 2018, as such Bylaws may be amended or supplemented from time-to-time in accordance therewith.

“Committee” means the Reservoir Project Committee described in Section 3 of this Project Agreement.

“Event of Default” means an event described in Section 9 hereof as an Event of Default.

“Financing Documents” means any indenture, trust agreement, loan agreement, lease agreement, installment purchase agreement or other financing document entered into by the Authority in connection with any Phase 2 Obligation.

“Fiscal Year” means the fiscal year of the Authority, which currently begins on January 1 of each calendar year and ends on December 31 of each calendar year, or such other twelve month period which may be designated by the Authority as its Fiscal Year.

“Joint Power Agreement” means the Fourth Amended and Restated Sites Project Authority Joint Exercise of Powers Agreement, dated November 21, 2016, as such agreement may be amended or supplemented from time-to-time in accordance therewith.

“Law” means Articles 1 through 4 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the California Government Code, as amended or supplemented from time-to-time.

“Lender” means a bank, other financial institution or other lender (including the State of California, the United States of America or any department, bureau or other affiliated entities thereof) making a loan to the Authority which constitutes a Phase 2 Obligation.

“Material Change Item” shall have the meaning ascribed thereto in the Bylaws.

“Participation Percentage” means the Participation Percentages described in Section 7 hereof and as set forth in **Exhibit A** hereto, as such Participation Percentages may be modified in accordance herewith. Participation Percentages may vary by Phase 2 Obligations as approved by the Committee and the Authority as set forth in Section 7 hereof.

“Phase 2” means the activities described in **Exhibit B** hereto as such description may be amended or supplemented from time-to-time.

“Phase 2A” means the activities described in **Exhibit B** hereto as Phase 2A as such description may be amended or supplemented from time-to-time.

“Phase 2B” means the activities described in **Exhibit B** hereto as Phase 2B as such description may be amended or supplemented from time-to-time.

“Phase 2B Costs” means all costs of the Phase 2 Project with respect to Phase 2B, including but not limited to (a) the principal and interest with respect to Phase 2 Obligations allocable to Phase 2B Costs, (b) fees payable to Bond Trustees, Lenders, and others related to the issuance and administration of Phase 2 Obligations allocable to Phase 2B Costs and (c) reserves required in connection with Phase 2 Obligations allocable to Phase 2B Costs, if any.

“Phase 2 Budget” means the Phase 2 Budget approved by the Committee on _____, 2018 and the Authority on _____, 2018, as such Phase 2 Budget may be amended or supplemented from time-to-time in accordance with the Joint Powers Agreement, this Project Agreement and the Bylaws.

“Phase 2 Costs” means all costs of the Phase 2 Project, including but not limited to (a) the principal and interest with respect to Phase 2 Obligations, (b) fees payable to Bond Trustees, Lenders, and others related to the issuance and administration of Phase 2 Obligations and (c) reserves required in connection with Phase 2 Obligations, if any.

“Phase 2 Obligations” means bond, notes or other evidences of indebtedness issued or incurred by the Authority in accordance with the Joint Powers Agreement and this Project Agreement to finance or refinance Phase 2 Costs.

“Project” or “Sites Reservoir Project” means the Sites Reservoir Project as described in **Exhibit B** hereto, as modified from time-to-time in accordance therewith.

“Project Agreement” means this Project Agreement, dated as of December 1, 2018, by and among the Authority and the Project Agreement Members listed on **Exhibit A** from time-to-time, as such Project Agreement may be amended or supplemented from time-to-time in accordance herewith.

“Project Agreement Members” means (a) the Authority Members listed in the attached **Exhibit A**, (b) the Non-Member Participating Parties listed in the attached **Exhibit A** and (c) additional Authority Members or Non-Member Participating Parties who execute this Project Agreement from time-to-time pursuant to Section 13 hereof.

“Step-Up Project Agreement Members” means Project Agreement Members listed in **Exhibit E** hereto as Step-Up Project Agreement Members which have agreed to make payments in accordance with Section 6.3 hereof.

Section 2 Purpose

The purpose of this Project Agreement is to permit the Authority and the Project Agreement Members to undertake Phase 2 of the Project in the name of the Authority consistent with the Joint Powers Agreement. The activities undertaken to carry out the purposes of this Project Agreement shall be those, and only those, authorized by the Authority and the Committee in accordance with this Project Agreement, the Joint Powers Agreement and the Bylaws. Without limiting in any way the scope of the activities that may be undertaken under this Project Agreement, such activities shall include funding the Authority’s Phase 2 Costs undertaken to carry out the directions of the Committee. Notwithstanding any other provision of this Project Agreement, no activity undertaken pursuant to this Project Agreement shall conflict with the terms of the Joint Powers Agreement or the Bylaws, nor shall this Project Agreement be construed in any way as creating an entity or combination of entities that is separate and apart from the Authority.

Section 3 Reservoir Project Committee

(a) Committee Membership. The business of the Project Agreement Members under this Project Agreement shall be conducted by a Committee consisting of one member appointed by each Project Agreement Member. Appointment of each member of the Committee shall be by action of the governing body of the Project Agreement Member appointing such member, and shall be effective upon the appointment date as communicated in writing to the Authority. Project Agreement Members may also appoint one or more alternate Committee members, which alternate(s) shall assume the duties of the Committee member in case of absence or unavailability of such member. Project Agreement Members may also appoint an alternate Committee member from a different Project Agreement Member for convenience in attending Committee meetings, who may cast votes for such Project Committee Members, provided that no person shall represent more than five other Project Committee Members and more than 20% of the weighted vote as provided in Subsection 3(g) at any given meeting; provided however, that if the appointing Project Committee Member is an officer of the Committee, the appointed alternate Committee member shall not assume the capacity of such officer position. In order to serve as an alternate Committee member, a written evidence of such designation shall be filed with the Committee Secretary. Each member and alternate member shall serve on the Committee from the date of appointment by the governing body of the Project Agreement Member he/she represents and at the pleasure of such governing body.

(b) Officers. The Committee shall select from among its members a Chairperson, who shall annually act as presiding officer, and a Vice Chairperson, to serve in the absence of the Chairperson. There also shall be selected a Secretary, who may, but need not be, a member of the Committee and a Treasurer. All elected officers shall be elected and remain in office at the pleasure of the Committee, upon the affirmative vote of at least a majority of the total weighted vote as provided at Subsection 3(g);

(c) Treasurer. The Authority Treasurer shall serve as the Committee’s Treasurer and shall act as the Committee’s liaison to the Authority’s General Manager and Authority Board on financial matters affecting the Committee. The Treasurer shall prepare and provide regular financial reports to the Committee as determined by the Committee.

(d) General Manager. The Authority's General Manager shall (1) serve as the Project Director responsible for advancing the Sites Reservoir Project, (2) be a non-voting member of the Committee, (3) ensure coordination of outreach and engagement activities between the Authority and Committee, and (4) convene, on an as needed basis, legal representatives from the Project Agreement Members and Authority Members to advise the General Manager on legal matters that will be reported to the Committee and Authority on a timely basis.

(e) Meetings. The Chairperson of the Committee or a majority of a quorum of the members of the Committee are authorized to call meetings of the Committee as necessary and appropriate to conduct its business under this Project Agreement. All such meetings shall be open to the public and subject to the requirements set forth in the Ralph M. Brown Act (Government Code Sections 54950 et seq.).

(f) Quorum. A majority of the Committee members based on the weighted vote provided in Subsection 3(g) shall constitute a quorum of the Committee.

(g) Voting. Notwithstanding any provisions of the Bylaws that might be construed otherwise, for purposes of this Project Agreement, the voting rights of each Project Agreement Member shall be determined as follows:

(i) an equal number of voting shares for each Project Agreement Member as defined at **Exhibit A**, that being for each Project Agreement Member, 1 divided by the total number of Project Agreement Members, multiplied by 50%; plus

(ii) an additional number of voting shares for each Project Agreement Member equal to its respective Participation Percentage described in Section 7 and defined in **Exhibit A**, multiplied by 50%, using the version of **Exhibit A** in effect at the time the Committee votes.

The resulting weighted total of all voting shares shall equal 100. An Example of this weighted voting incorporating the formulas for determining participating percentages is attached at **Exhibit A**.

(h) Decision-making Thresholds. In accordance with Section 5.7 of the Bylaws, for purposes of this Project Agreement, approval by the Committee for material and non-material changes shall be as follows: for actions other than Material Change Items, action of the Committee shall be taken upon the affirmative vote of at least a majority of the total weighted vote as provided in Subsection 3(g); for Material Change Items, action shall be taken upon the affirmative vote of at least 75% of the total weighted vote as provided at Subsection 3(g).

(i) Delegation of Authority/Powers and Limitations Thereon. Subject to the direction of the governing bodies of the Project Agreement Members, the Committee shall undertake all actions necessary for carrying out this Project Agreement, including but not limited to setting policy for the Project Agreement Members acting under this Project Agreement with respect to the Project; recommending actions to be undertaken in the name of the Authority under this Project Agreement; determining the basis for calculation of the Participation Percentages for each Fiscal Year, and the timing required for payments of Phase 2 Obligations hereunder; authorizing expenditure of funds collected under this Project Agreement within the parameters of the Phase 2 Budget; and such other actions as shall be reasonably necessary or convenient to carry out the purposes of this Project Agreement. This Section 3(i) is subject to any and all limitations set forth in

the Joint Powers Agreement and Bylaws, including but not limited to, any action that constitutes a material change as defined at Section 12.3 of the Bylaws requiring the approval of both the Committee and the Authority Board, and actions specified in Section 10 of the Bylaws which remain exclusively with the Authority Board.

Section 4 Funding

(a) Budget. The Committee, in cooperation with the Authority's Board, has previously approved the Phase 2 Budget and the Fiscal Year 2019 Authority budget and shall provide and approve a Fiscal Year operating budget for future Fiscal Years annually or more frequently as needed. In lieu of the Project Agreement Members contributing their respective pro-rata share of the budgeted sums during Phase 2, the Authority shall use its best effort to issue Phase 2 Obligations to finance the cost of Phase 2 as set forth in Section 5 hereof.

(b) Allocation of Phase 2 Obligations. Should the Project Agreement Members acting collectively under this Project Agreement enter into any contract or other voluntary obligation for activities included in **Exhibit B** hereto and contemplated in **Exhibit D** hereto, such contract or obligation shall be in the name of the Authority; provided, that all financial obligations thereunder shall be satisfied solely with funds provided under this Project Agreement and in accordance with Section 6.

(c) Allocation of Project Agreement Expenses. The Project Agreement Members agree that the principal and interest on all Phase 2 Obligations are Phase 2 Costs and that the obligation to pay Phase 2 Costs is solely the responsibility of the Project Agreement Members and is not the responsibility of the Authority or the Members of the Authority that do not execute this Project Agreement provided, however, that this Section shall not preclude the Project Agreement Members from accepting voluntary contributions and/or the Authority Board's pre-approval of in-kind services from other Authority Members, or Project Agreement Members, and applying such contributions to the purposes hereof. Before the Authority's costs of administering this Project Agreement become payable, the Authority will provide its calculation of such costs to the Committee, which will have the right to audit those costs and provide comments on the calculation to the Authority Board. The Authority Board shall consider the Committee's comments, if any, including the results of any such audit, in a public meeting before the Authority Board approves a final invoice for such costs.

Section 5 Authorization to Issue or Incur Phase 2 Obligations

5.1 Issuance or Incurrence of Phase 2 Obligations. The Authority hereby agrees to use its best efforts to issue or cause to be issued Phase 2 Obligations pursuant to Article VI of the Joint Power Agreement to fund all Phase 2 Costs. Such Phase 2 Obligations shall be payable solely from payments to be made by Project Agreement Members pursuant to this Project Agreement.

5.2 Initial Phase 2 Obligations. The initial issuance of Phase 2 Obligations is estimated to be [\$350,000,000] which is currently estimated to be equal to Phase 2 Costs net of projected contributions from the California Water Commission and the United States Bureau of Reclamation. The Phase 2 Obligations shall be issued, in one or more issuances, only upon approval of the Committee and the Authority Board. Attached hereto as **Exhibit C** is a copy of a draft term sheet for the initial Phase 2 Obligations. **Exhibit D** sets forth the anticipated cost allocation of principal and

interest with respect to the initial Phase 2 Obligations. The initial issuance of Phase 2 Obligations shall constitute a Material Change Item.

5.3 Future Phase 2 Obligations. A refinancing of the initial Phase 2 Obligations is anticipated and any Project Agreement Member which does not pay off its share of principal of such initial Phase 2 Obligations 180 days before the maturity date thereof are obligated under this Project Agreement to participate in the refinancing. Any refinancing of the initial Phase 2 Obligations, any additional Phase 2 Obligations and any refinancing of prior Phase 2 Obligations shall be upon approval of the Authority and the Project Agreement Members (which approval shall constitute a Material Change Item); provided, that any Project Agreement Members that is obligated to refinance its share of principal of the initial Phase 2 Obligations pursuant to this Project Agreement is deemed to have approved such refinancing. **Exhibit D** shall be updated by the Authority after the issuance of each Phase 2 Obligations but such updating shall not constitute an amendment of this Project Agreement.

5.4 Phase 2B Costs. Notwithstanding the foregoing provisions of Sections 5.1, 5.2 and 5.3 the Authority shall not incur any Phase 2B Costs or any Phase 2 Obligations to finance Phase 2B Costs, until the rebalancing, if any, scheduled to occur at the end of Phase 2A, described in Section 12(b) hereof, has been completed and there are Project Agreement Members that have Participant Percentage totaling 100% with respect to Phase 2B.

5.5 Limited Obligations. Any Phase 2 Obligations incurred by the Authority pursuant to this authorization shall not be debts, liabilities, obligations or indebtedness of any Member of the Authority other than Project Agreement Members in accordance herewith. No Project Agreement Member shall be obligated for amounts owed by another Project Agreement Member on account of any Phase 2 Obligations authorized by this Section 5, except as provided in Section 6.3 of this Project Agreement.

Section 6 Financing Terms

6.1 Cooperation, Disclosure and Documents. Each Project Agreement Member hereby agrees to cooperate with the Authority for the purpose of expediting the issuance of Phase 2 Obligations to finance the Phase 2 Costs by providing such information and disclosure as may be reasonably required for such purpose, and by delivering all closing documents reasonably required by Authority bond counsel at the closing of each Phase 2 Obligations described in Section 5 of this Project Agreement. Each Project Agreement Member will adopt, deliver, execute and make any and all further assurances, instruments and resolutions as may be reasonably necessary or proper to effect the financing and refinancing of the Phase 2 Costs and to allow the Authority to comply with reporting obligations, to assure the Authority of such Project Agreement Member's intention to perform hereunder and for the better assuring and confirming unto the Authority and any Bond Trustee or any Lender the rights and benefits provided to them herein.

6.2 Payments of Phase 2 Costs. Each Project Agreement Member agrees to pay an amount of Phase 2 Costs which shall be calculated by the Authority by multiplying principal of and interest with respect to each Phase 2 Obligation times each Project Agreement Member's Participation Percentage with respect to such Phase 2 Obligations. For the Fiscal Year ending December 31, 2019, the Project Agreement Members shall pay to the Authority, Phase 2 Costs as provided in the Phase 2 budget described in Section 4(a).

The Authority shall furnish each Project Agreement Member with a written statement of the estimated Phase 2 Costs for the next succeeding Fiscal Year, taking into account applicable credits received by the Authority and estimated investment earnings on moneys related to the Project held by the Authority, no later than November 1 of each Fiscal Year commencing November 1, 2019. In addition, if any Project Agreement Member who has executed a State Water Project Contract with the California Department of Water Resources provides a written direction in the form attached hereto as Exhibit I to the Authority, the Authority shall also furnish the California Department of Water Resources with a copy of each written statement no later than [November 1] of the prior Fiscal Year. The Project Agreement Members shall pay, or cause to be paid, to the Authority, on or before the next succeeding January 15 of, 100% of the Phase 2 Costs billed to the Project Authority Members in such written statement.

If a Project Agreement Member questions or disputes the correctness of any billing statement by the Authority, it shall pay the Authority the amount claimed when due and shall, within thirty (30) days of the completion and delivery of the Authority's annual audit, request an explanation from the Authority. If the bill is determined to be incorrect, the Authority will adjust the bill to such Project Agreement Member in the next Authority Fiscal Year, including an adjustment equal to the interest actually earned by the Authority on its general reserves during each period. If the Authority and a Project Agreement Member fail to agree on the correctness of a bill within thirty (30) days after a Project Agreement Member has requested an explanation, the parties shall promptly submit the dispute to arbitration under Section 1280 et seq. of the Code of Civil Procedure.

6.3 Step-Up Obligation. Each Project Member identified in **Exhibit E** as a Step-Up Project Agreement Member hereby agrees that upon the failure of any Project Agreement Member to make any payment which failure constitutes an Event of Default, and except as transfers are made pursuant to Subsection 9(b) of this Project Agreement, (i) the Phase 2 Costs of each nondefaulting Project Agreement Member shall be automatically increased for each Fiscal Year of the remaining term of the Project Agreement pro rata with those of the other nondefaulting Step-Up Project Agreement Members and (ii) such defaulting Project Agreement Member's Participation Percentage shall be reduced correspondingly; provided, however, that the sum of such increases for any such nondefaulting Step-Up Project Agreement Member in any Fiscal Year shall not exceed, without written consent of such nondefaulting Step-Up Project Agreement Member, an accumulated maximum of [25%] of the nondefaulting Step-Up Project Agreement Member's Phase 2 Costs in such Fiscal Year determined as nearly as practicable under the circumstances as if the defaulting Project Agreement Member were not in default. Upon payment of such increase, a nondefaulting Step-Up Project Agreement Member shall be entitled to increase its Participation Percentage based on its pro rata share of such defaulting Project Agreement Member's Participation Percentage.

6.4 Future Financings. In the event a Project Agreement Member under Section 6.3 participates in any future borrowing or refinancing authorized by this Project Agreement, such Project Agreement Member agrees to undertake the same obligations as are set forth in Sections 6.1 of this Project Agreement and, if such Project Agreement Member is a Step-Up Project Agreement Member, Section 6.3 of this Project Agreement.

6.5 Interest on Late Payment. Any part of such demand by the Authority which remains unpaid for thirty (30) days after its due date shall bear interest from such thirtieth day at the interest rate of the Local Agency Investment Fund then in effect computed on a monthly basis plus two percent until paid. Interest paid by a Project Agreement Member shall not change the Participation

Percentage of such Project Agreement Member but shall be applied to the Phase 2 Costs of Project Agreement Members other than the Project Agreement Member paying such interest.

6.6 Authority Responsibility re Collected Funds. The Authority shall apply the funds paid by the Project Agreement Members pursuant to Sections 6.2 and 6.3 solely to satisfy Phase 2 Obligations. The Authority agrees to keep amounts collected under this Project Agreement in a designated account, promptly pay when due the amounts collected under the Project Agreement, provide accounting and payment information to the Project Agreement Members, and take such other reasonable actions as may be requested by the Project Agreement Members and agreed to by the Authority; provided, that failure of the Authority or of a Project Agreement Member to make payment required by this Project Agreement shall not relieve and Project Agreement Members of its obligation to pay all amounts owed under Sections 6.2 and 6.3 solely hereof.

6.7 Source of Payments. In order to meet payment obligations of this Project Agreement in accordance with the Joint Powers Agreement and this Project Agreement, each Project Agreement Member agrees as follows:

(a) each Project Agreement Member described as a Wholesale Water Provider in **Exhibit A** hereto shall to the fullest extent permitted by law, fix rates, charges or assessments so that such Project Agreement Member will at all times have sufficient money to meet its obligations hereunder (other than the principal of any Phase 2 Obligation which the Authority and the Project Agreement Members project being refinanced in accordance with Section 5.3 hereof) and confirms that payment of its obligations under this Project Agreement constitutes an operation and maintenance expense of such Project Agreement Member for accounting purposes and that as an operation and maintenance expense there are no liens, charges or encumbrances thereon, or priority of payments with respect thereto, prior to the payment of amounts hereunder; or

(b) each Project Agreement Member described as a Retail Water Provider in **Exhibit A** hereto shall to the fullest extent permitted by law, fix rates, charges or assessments in connection with its water or irrigation system so that such Project Agreement Member will at all times have sufficient money to meet its obligations hereunder (other than the principal of any Phase 2 Obligation which the Authority and the Project Agreement Members project being refinanced in accordance with Section 5.3 hereof) and confirms that payment of its obligations under this Project Agreement constitutes an operation and maintenance expense of such Project Agreement Member's water or irrigation system for accounting purposes and that as an operation and maintenance expense there are no liens, charges or encumbrances thereon, or priority of payments with respect thereto, prior to the payment of amounts hereunder; or

(c) each Project Agreement Member described as a Retail Water Provider (Improvement District) and which has created an improvement district to support the Project in **Exhibit A** hereto shall to the fullest extent permitted by law, fix rates, charges or assessments within such improvement district so that such Project Agreement Member will at all times have sufficient money to meet its obligations hereunder (other than the principal of any Phase 2 Obligation which the Authority and the Project Agreement Members project being refinanced in accordance with Section 5.3 hereof) and confirms that payment of its obligations under this Project Agreement constitutes an operation and maintenance expense of such Project Agreement Member's improvement district for accounting purposes and that as an operation and maintenance expense there are no liens, charges or encumbrances thereon, or priority of payments with respect thereto, prior to the payment of amounts hereunder; or

(d) each Project Agreement Member described as an Other Water Provider on **Exhibit A** hereto shall pay all amounts due hereunder (other than the principal of any Phase 2 Obligation which the Authority and the Project Agreement projects being refinanced in accordance with Section 5.3 hereof) as a general obligation or general fund obligation of such Project Agreement Member.

Nothing herein shall be construed as prohibiting any Project Agreement Member (i) from using any other funds and revenues for purposes of satisfying any provisions of this Project Agreement (including but not limited to funds collected by the California Department of Water Resources and paid to the Authority on behalf of Wholesale Water Providers as described in Section 6.2 hereof or (ii) from incurring obligations payable on a parity with the obligations under this Project Agreement so long as the Project Agreement Member complies with Subsection 6.7(a), (b) or (c), as applicable, hereof.

(d) Obligation Is Not Subject to Reduction. Project Agreement Members shall make payments of Phase 2 Costs under this Project Agreement whether or not the Project is permitted, undertaken, completed, operable, operated or retired and notwithstanding the suspension, interruption, interference, reduction, or curtailment of operation of the Project or of water or storage contracted for in whole or in part for any reason whatsoever. Such payments are not subject to any reduction, whether offset or otherwise, and are not conditioned upon performance by the Authority or any other Project Agreement Member under this Project Agreement or any other agreement.

(e) Several Obligation. No Project Agreement Member shall be liable under this Project Agreement for the obligations of any other Project Agreement Member except as expressly set forth in Section 6.3 hereof in the case of Step-Up Project Agreement Members. Each Project Agreement Member shall be solely responsible and liable for performance of its obligations under this Project Agreement. The obligation of each Project Agreement Member to make payments under this Project Agreement is a several obligation and not a joint obligation with those of the Project Agreement Members.

6.8 Maintenance of Tax-Exempt Status of Phase 2 Obligations. Notwithstanding any other provision of this Project Agreement, no Project Agreement Member will take any action or omit to take any action, directly or indirectly, in any manner, which would result in any of the Phase 2 Obligations issued as Phase 2 Obligations the interest on which were intended to be excludable from gross income for federal income tax purposes being treated as an obligation not described in Section 103(a) of the Internal Revenue Code of 1986, as amended by reason of classification of such Phase 2 Obligations as a "Private Activity bond" within the meaning of Section 141 of said Code or for any other reason.

Section 7 Participation Percentages

Each Project Agreement Member shall pay that share of Phase 2 Obligation equal to such Project Agreement Member's Participation Percentage with respect to each Phase 2 Obligation. The initial Participation Percentages of the Project Agreement Member's for the initial Phase 2 Obligation are set forth at the attached **Exhibit A**. These initial Participation Percentages are for the purpose of establishing the Project Agreement Members respective responsibilities for amounts contained in the approved Fiscal Year 2019.

In the event that the Committee and the Authority approve Participation Percentages with respect to Phase 2 Obligations that are different than the initial Participation Percentages set forth in Exhibit D, including but not limited to Phase 2 Obligations the interest on which is not excludable from gross income for federal income tax purposes, **Exhibit D** shall be amended to reflect such additional Participation Percentages. Approval of Participation Percentages with respect to Phase 2 Obligations different than the initial Phase 2 Participation Percentages set forth in **Exhibit D** shall constitute a Material Change Item.

The Participation Percentages of each Project Agreement Member will be modified by the Committee from time to time as the result of the admission of a new Project Agreement Member to this Project Agreement or the withdrawal of a Project Agreement Member, and **Exhibit A** shall be amended to reflect all such changes.

All amendments to **Exhibit A** shall, upon approval by the Committee, be attached hereto and upon attachment, shall supersede all prior versions of **Exhibit A** without the requirement of further amendment of this Project Agreement.

Section 8 Future Development of the Sites Reservoir Project

(a) The Project Agreement Members acknowledge that the Sites Reservoir Project is still in the conceptual stage and there are no assurances that the Sites Reservoir Project will be constructed or that any water supplies will be developed as a result of this Project Agreement. **Exhibit B** includes a partial list of some of the risks and uncertainties that underlie the lack of assurances. The Project Agreement Members therefore recognize that they are not acquiring any interest in the Sites Reservoir Project other than their interest in the specific permitting, design, engineering and other materials that will be in Phase 2 of the Project as described in **Exhibit B**, and that the Project Agreement Members are not acquiring under this Project Agreement any interest in any future water supply or access to any other services from the Sites Reservoir Project except as provided hereunder.

(b) Without limiting the foregoing, any Project Agreement Member that elects to continue participating in the development, financing, and construction of the Sites Reservoir Project to the time when the Authority offers contracts for a water supply or other services, will be afforded a first right, commensurate with and in proportion to that Member's participation and financial contribution to the Sites Reservoir Project, to contract for a share of any water supply that is developed, and for storage capacity that may be available from, the Sites Reservoir Project. In any successor phase agreements, Project Agreement Members who are parties to this Project Agreement that submitted a proposal to participate before [December 31, 2018], shall be granted rights to contract for a share of any water supply that is developed, and for storage capacity that may be available from the Sites Reservoir Project prior to the rights of those becoming parties to this Project Agreement after that date. The Authority and the Project Agreement Members will cooperate on the drafting of provisions in the water supply contract that will allow a Project Agreement Member or other eligible entity that commits to purchase a Sites Reservoir Project water supply to transfer water that the entity may not need from time to time on terms and conditions acceptable to the such Project Agreement Member.

Section 9 Obligation in the Event of Default

(a) Written Demand. Upon failure of a Project Agreement Member to (i) make any payment in full when due under this Project Agreement or (ii) perform any other obligation hereunder, the Authority shall make written demand upon such Project Agreement Member. If a failure described in clause (i) above is not remedied within thirty (30) days from the date of such demand or, if Phase 2 Obligations are outstanding, for such additional time as is reasonably required, in the sole discretion of the respective Bond Trustee or Lender, to correct the same, such failure shall constitute a default at the expiration of such period. If a failure described in clause (ii) cannot be remedied within thirty (30) days from the date of such demand but such Project Agreement Member commences remedial action within such thirty (30) day period, such failure shall not constitute a default hereunder. Notice of any such demand shall be provided to each other Project Agreement Member by the Authority. Upon failure of the Authority to perform any obligation of the Authority hereunder, a Project Agreement Member shall make written demand upon the Authority, and if such failure is not remedied within thirty (30) days from the date of such demand or, if Phase 2 Obligations are outstanding for such additional time as is reasonably required in the sole discretion of the respective Bond Trustee or Lender, to correct the same, such failure shall constitute an Event of Default at the expiration of such period. Notice of such demand shall be provided to each Project Agreement Member by such Project Agreement Member making such written demand.

In addition to any Event of Default resulting from breach by the Authority or a Project Agreement Member of any agreement, condition, covenant or term hereof, if the Authority or a Project Agreement Member shall file any petition or institute any proceedings under any act or acts, state or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendment of such act or acts, either as a bankrupt or as an insolvent or as a debtor or in any similar capacity, wherein or whereby the Authority or a Project Agreement Member asks or seeks or prays to be adjudicated a bankrupt, or to be discharged from any or all of its debts or obligations, or offers to its creditors to effect a composition or extension of time to pay its debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for a readjustment of its debts or for any other similar relief, or if the Authority or a Project Agreement Member shall make a general or any assignment for the benefit of its creditors then in each and every such case, the Authority or a Project Agreement Member, as the case may be, shall be deemed to be an Event of Default hereunder.

(b) Transfer for Defaulting Project Agreement Member's Account. Upon the failure of a Project Agreement Member to make any payment which failure constitutes an Event of Default under this Project Agreement, the Authority shall use its best efforts to transfer for the Project Agreement Member's account all or a portion of the Project Agreement Member's Participation Percentage for all or a portion of the remainder of the term of this Project Agreement. Notwithstanding that all or any portion of a Project Agreement Member's Participation Percentage is so transferred, such Project Agreement Member shall remain liable to the Authority to pay the full amount of its share of costs hereunder as if such sale or transfer has not been made, except that such liability shall be discharged to the extent that the Authority shall receive payment from the transferee thereof. In the event that all of the Project Agreement Members Participation Percentage for the remainder of the term of the Project Agreement is not transferred pursuant to this Section 9(b), the Authority shall implement the provisions of Section 6.3 in a manner to assure, to the fullest extent possible, timely payment of all Phase 2 Obligations by the Step-Up Members.

(c) Termination of Entitlement to Participation Percentage Continuing Obligations. Upon the failure of a Project Agreement Member to make any payment which failure

constitutes an Event of Default under this Project Agreement, (ii) the failure of the defaulting Project Agreement Member to cure the default within the timeframes specified in Section 9(a), and (iii) the Event of Default causing the Authority to be in default under any Financing Document, the Authority may (in addition to the remedy provided by Subsection (b) of this Section 9) give notice of termination of the defaulting Project Agreement Member's Participation Percentages under this Project Agreement, which notice shall be effective 30 days following the sending of the notice unless such termination shall be enjoined, stayed or otherwise delayed by judicial action. Irrespective of such termination, such Project Agreement Member shall remain liable to the Authority to pay the full amount of Phase 2 Costs hereunder.

(d) Enforcement of Remedies. In addition to the remedies set forth in this Section, upon the occurrence of an Event of Default as defined herein, the Authority or a Project Agreement Member, as the case may be, shall be entitled to proceed to protect and enforce the rights vested in such party by this Project Agreement by such appropriate judicial proceeding as such party shall deem most effectual, either by suit in equity or by action of law, whether for the specific performance of any covenant or agreement contained herein or to enforce any other legal or equitable right vested in such party by this Project Agreement or by law. The provisions of this Project Agreement and the duties of each party hereof, their respective boards, officers or employees shall be enforceable by the other party hereto by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction, and the prevailing party shall be entitled to an award of its costs an attorney's fees.

Section 10 Indemnity and Contribution

(a) Each Project Agreement Member, including Authority Members acting in their capacity as Project Agreement Members and notwithstanding [Section 6.7(b) of this Project Agreement,] shall indemnify, defend and hold the Authority, Authority Members and other Project Agreement Members and their directors, trustees, officers, employees, and agents harmless from and against any liability, cause of action or damage (including, without limitation, reasonable attorneys' fees) arising out of the performance of this Project Agreement in excess of the amount of such liability, cause of action or damage multiplied by each Project Agreement Member's Participation Percentage. Notwithstanding the foregoing, to the extent any such liability is caused by the negligent or intentional act or omission of an Authority Member or a Project Agreement Member, such Authority Member or Project Agreement Member shall bear such liability.

(b) Each Project Agreement Members, including Authority Members acting in their capacity as Project Agreement Members shall indemnify, defend and hold the Authority and the members of the Authority that do not execute this Project Agreement and their directors, trustees, officers, employees and agents harmless from and against any liabilities, costs or expenses of any kind (including, without limitation, reasonable attorney's fees) arising as a result of the activities described in or undertaken pursuant to this Project Agreement. All assets, rights, benefits, debts, liabilities and obligations attributable to activities undertaken under this Project Agreement shall be assets, rights, benefits, debts, liabilities and obligations solely of the Project Agreement Members in accordance with the terms hereof, and shall not be the assets, rights, benefits, debts, liabilities and obligations of the Authority or of those members of the Authority that have not executed this Project Agreement. Members of the Authority not electing to participate in the Project Agreement shall have no rights, benefits, debts, liabilities or obligations attributable to the Project Agreement.

Section 11 Term

(a) No provision of this Project Agreement shall take effect until this Project Agreement has been duly executed and delivered by the Authority and by [one] Project Agreement Member and the such Project Agreement Member and the Authority deliver an opinion for each Project Agreement Member of an attorney or firm of attorneys in substantially the form attached hereto as **Exhibit G** and an opinion for the Authority of [Stradling Yocca Carlson & Rauth, a Professional Corporation,] Special Counsel, in substantially the form attached hereto as **Exhibit H**, respectively.

(b) The term of this Project Agreement shall continue until the later of _____, [2025] or the final maturity of the Phase 2 Obligations. The parties hereto agree to negotiate in good faith to amend this Project Agreement on or prior to such date to extend the term hereof and to include terms and conditions as are mutually agreeable to the parties, provided that the price to be paid with respect to the Participation Percentage in such amendment shall reflect the payment of capital costs to such date.

Section 12 Withdrawal From Further Participation

Project Agreement Members may withdraw from this Project Agreement as provided in this Section 12.

(a) Except as otherwise provided in Section 12(b) below, a Project Agreement Member may withdraw from the Project by giving the Authority and all other Project Agreement Members written notice of such withdrawal not less than 180 days prior to the withdrawal date. Notwithstanding the foregoing withdrawal is conditioned upon the withdrawing Project Agreement Member's payment or agreement to pay its share of all Phase 2 Obligations authorized by the Authority and the Reservoir Committee prior to the effective date of such withdrawal. A withdrawing Project Agreement Member shall, not later than 30 days prior to the proposed withdrawal date, pay all such Project Agreement Member's financial obligations incurred prior to such withdrawal date pursuant to the terms of this Project Agreement or enter into an agreement acceptable to the Authority providing for continuing payment of such Phase 2 Obligations until fully paid.

(b) The Authority shall commence a rebalancing process no later than 90 days prior to the estimate date of completion of Phase 2A. Any Project Agreement Member may withdraw from the Project effective on the date of completion of Phase 2A by giving the Authority and all other Project Agreement Members written notice of such withdrawal not less than 60 days prior to the date of completion of Phase 2A. Notwithstanding the foregoing, withdrawal is conditioned upon the withdrawing Project Agreement Member's payment or agreement to pay its share of all Phase 2 Obligations issued to finance the cost of Phase 2A. A withdrawing Project Agreement Member shall, not later than 30 days prior to the estimated date of completion of Phase 2A, pay all such Project Agreement Member's financial obligations incurred with respect to Phase 2A prior to such withdrawal date pursuant to the terms of this Project Agreement or enter into an agreement acceptable to the Authority providing for continuing payment of such Phase 2 Obligations until fully paid.

(c) Withdrawal shall not excuse the withdrawing Project Agreement Member's performance of obligations imposed upon that party by any judgment which has been entered by a

court of competent jurisdiction or regulation to which the Authority or the Project Agreement Members are subject and that arise from or are related to activities of the Project Agreement conducted during the period when the withdrawing Project Agreement Member participated in this Project Agreement. Furthermore, the indemnification obligations and rights to contribution described in Section 10 of this Project Agreement shall survive a Project Agreement Member's withdrawal from this Project Agreement for activities under this Project Agreement conducted during the period when the withdrawing Project Agreement Member participated in this Project Agreement.

Section 13 Admission of New Project Agreement Members

Additional Members of the Authority and Non-Member Participating Parties may become Project Agreement Members upon (a) the affirmative vote of at least 75% of the total weighted vote as provided at Subsection 3(g) of the then-current Project Agreement Members, (b) the affirmative vote of at least 75% of the total number of Directors of the Authority and (c) the written approval of each Bond Trustee or Lender with respect to Phase 2 Obligations, to the extent such Bond Trustee or Lender has an approval right under its respective Financing Document, and upon such conditions as are fixed by such Project Agreement Members.

Section 14 Amendments

This Project Agreement may be amended only by a writing executed by the Authority, at least 75% of the total weighted vote as provided in Subsection 3(g) of the then-current Committee members and, if any Phase 2 Obligations are outstanding, the written approval of each Bond Trustee or Lender, to the extent such Bond Trustee or Lender has an approval right under its respective Financing Document.

Section 15 Assignment; Binding on Successors

Except as otherwise provided in this Project Agreement, the rights and duties of the Project Agreement Members may not be assigned or delegated without the written consent of the other Project Agreement Members and the Authority, which consent shall not be unreasonably withheld. Any attempt to assign or delegate such rights or duties in contravention of this Project Agreement shall be null and void. Project Agreement Members may assign and delegate their rights and duties under this Project Agreement to other Project Agreement Members, and they may assign, sell, trade, or exchange all or a fraction of the potential benefits (e.g. acre-feet of water supply, megawatt-hours of power) they expect to receive through their participation in this Project Agreement. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities and other obligations of the Authority then in effect. This Project Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Authority and the Project Agreement Members. Notwithstanding the foregoing, no such assignment shall be effective unless approval by each Bond Trustee or Lender with respect to Phase 2 Obligations to the extent such Bond Trustee or Lender has an approval right under its respective Financing Document.

The Authority may pledge and assign to any Bond Trustee or Lender all or any portion of the payments received under this Project Agreement from the Project Agreement Members and the Authority's other rights and interests under this Project Agreement. Such pledge and assignment by the Authority shall be made effective for such time as the Authority shall determine

and provide that the Bond Trustee or Lender shall have the power to enforce this Project Agreement if an Event of Default occurs under the applicable Financing Document.

Section 16 Third Party Beneficiaries

Any Bond Trustee or Lender shall have the right as a third party beneficiary to initiate and maintain suit to enforce this Project Agreement to the extent provided in any Financing Document. Any Project Agreement Member shall have the right as a third party beneficiary to initiate and maintain suit to enforce the obligations of other Project Agreement Members hereunder.

Section 17 Counterparts

This Project Agreement may be executed by the Authority and each Project Agreement Member in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument. Facsimile and electronic signatures shall be binding for all purposes.

Section 18 Merger of Prior Agreements

This Project Agreement and the exhibits hereto constitute the entire agreement between the parties and supersede all prior agreements and understanding between the parties relating to the subject matter hereof. This Project Agreement is intended to implement, and should be interpreted consistent with, the Joint Powers Agreement.

Section 19 Severability

If one or more clauses, sentences, paragraphs or provisions of this Project Agreement shall be held to be unlawful, invalid or unenforceable, the remainder of the Project Agreement shall not be affected thereby.

Section 20 Choice of Law

This Project Agreement shall be governed by the laws of the State of California.

Section 21 Notices

Notices authorized or required to be given under this Project Agreement shall be in writing and shall be deemed to have been given when mailed, postage prepaid, or delivered during working hours, to the addresses set forth **Exhibit F (“Notifications”)**, or to such other address as a Project Agreement Member may provide to the Authority and other Project Agreement Members from time to time.

IN WITNESS WHEREOF, the Authority and Project Agreement Members hereto, pursuant to resolutions duly and regularly adopted by their respective governing bodies, have caused their names to be affixed by their proper and respective officers on the date shown below:

Dated: _____

SITES PROJECT AUTHORITY

By: _____
Name:
Title:

[PROJECT AGREEMENT MEMBER]

Dated: _____

(Authority & Project Agreement Member)

By: _____
Name:
Title:

EXHIBIT A

PROJECT AGREEMENT MEMBERS

[TO COME FROM AUTHORITY]

EXHIBIT B

PHASE 2 PROJECT DESCRIPTION

[TO COME FROM AUTHORITY]

EXHIBIT C

INITIAL PHASE 2 OBLIGATION TERM SHEET

[TO COME FROM MDA]

EXHIBIT D

ALLOCATION OF PRINCIPAL OF INITIAL PHASE 2 OBLIGATIONS

[TO COME FROM MDA]

Project Agreement Member	Participating Percentage	Allocable Principal	Allocable Interest[*]	Bank and Other Fees^{**}	Total
	%	\$	\$		\$
	100%	[\$350,000,000]	n/a		n/a

^{*} Interest is expected to vary from time-to-time as described in the Term Sheet. Allocable interest shall equal a Project Agreement Member's Participation Percentage times actual interest paid in Phase 2 Obligations.

^{**} Estimated; may vary.

EXHIBIT E

STEP-UP PROJECT AGREEMENT MEMBERS

[WORKING ASSUMPTION IS THAT ALL PROJECT AGREEMENT MEMBERS ARE STEP-UP
PROJECT AGREEMENT MEMBERS]

EXHIBIT F

NOTIFICATIONS

[TO COME FROM AUTHORITY]

EXHIBIT G

FORM OF OPINION OF PROJECT AGREEMENT
MEMBER COUNSEL

[This opinion shall be delivered upon execution of the Phase 2 Reservoir Project Agreement]

_____, 2018

Sites Project Authority
P.O. Box 517
Maxwell, California 95955

Ladies and Gentlemen:

We are acting as general counsel to the _____ (the "Project Agreement Member") under the Phase 2 Reservoir Project Agreement, dated as of _____, 2018 (the "Agreement"), among the Sites Project Authority (the "Authority") and certain other entities including the Project Agreement Member, and have acted as general counsel to the Project Agreement Member in connection with the matters referred to herein. As such counsel we have examined and are familiar with (i) documents relating to the existence, organization and operation of the Project Agreement Member provided to us by the Project Agreement Member, (ii) certifications by officers of the Project Agreement Member, (iii) all necessary documentation of the Project Agreement Member relating to the authorization, execution and delivery of the Agreement, and (iv) an executed counterpart of the Agreement. Terms used herein and not otherwise defined have the respective meanings set forth in the Agreement.

Based upon the foregoing and such examination of law and such other information, papers and documents as we deem necessary or advisable to enable us to render this opinion, including the Constitution and laws of the State of California, together with the resolutions, ordinances and public proceedings of the Project Agreement Member, we are of the opinion that:

1. The Project Agreement Member is a _____, duly created, organized and existing under the laws of the State of California and duly qualified to furnish water services within its boundaries.

2. The Project Agreement Member has legal right, power and authority to enter into the Agreement and to carry out and consummate all transactions reasonably contemplated thereby, and the Project Agreement Member has complied with the provisions of applicable law relating to such transactions.

3. The Agreement has been duly authorized, executed and delivered by the Project Agreement Member, is in full force and effect as to the Project Agreement Member in accordance with its terms and, subject to the qualifications set forth in the second to the last paragraph hereof, and assuming that the Authority has all requisite power and authority, and has taken all necessary action, to authorize, execute and deliver such agreement, the Agreement constitutes the valid and binding obligation of the Project Agreement Member.

4. The obligation of the Project Agreement Member to make payments under the Agreement as provided in Section 6 of the Agreement is a valid legal and binding obligation of the Project Agreement Member enforceable in accordance with its terms.

5. No approval, consent or authorization of any governmental or public agency authority or person is required for the execution and delivery by the Project Agreement Member of the Agreement.

6. The authorization, execution and delivery of the Agreement and compliance with the provisions thereof will not conflict with or constitute a breach of, or default under, any instrument relating to the organization, existence or operation of the Project Agreement Member, any commitment, agreement or other instrument to which the Project Agreement Member is a party or by which it or its property is bound or affected, or any ruling, regulation, ordinance, judgment, order or decree to which the Project Agreement Member (or any of its officers in their respective capacities as such) is subject or any provision of the laws of the State of California relating to the Project Agreement Member and its affairs.

7. There is no action, suit, proceeding, inquiry or investigation at law or in equity, or before any court, public board or body, pending or, to our knowledge, threatened against or affecting the Project Agreement Member or any entity affiliated with the Project Agreement Member or any of its officers in their respective capacities as such, which questions the power of the Project Agreement Member referred to in paragraph 2 above or the validity of the proceedings taken by the Project Agreement Member in connection with the authorization execution or delivery of the Agreement, or wherein any unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by the Agreement, or which would adversely affect the validity or enforceability of the Agreement.

The opinion expressed in paragraphs 3 and 4 above are qualified to the extent that the enforceability of the Agreement may be limited by any applicable bankruptcy, insolvency, reorganization, arrangement, moratorium, or other laws affecting creditors' rights, to the application of equitable principles and to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public agencies in the State of California and provided that no opinion is expressed with respect to any indemnification or contribution provisions contained therein

This opinion is rendered only with respect to the laws of the State of California and the United States of America and is addressed only to the Site Project Authority. No other person is entitled to rely on this opinion, Nor may you rely on it in connection with any transactions other than those described herein.

Very truly yours,

EXHIBIT H

FORM OF OPINION OF AUTHORITY SPECIAL COUNSEL

[This opinion shall be delivered upon execution of the Phase 2 Reservoir Project Agreement]

_____, 2018

Sites Project Authority
P.O. Box 517
Maxwell, California 95955

The Project Agreement Members Listed
on Exhibit A attached hereto

Ladies and Gentlemen:

We are special counsel to the Sites Project Authority (the “Authority”) and are familiar with the Phase 2 Reservoir Project Agreement, dated as of _____, 2018 (each, an “Agreement”), among the Authority and each of the entities identified on Exhibit A attached hereto (each a “Project Agreement Member”) in connection with the matters referred to herein. As special counsel we have examined and are familiar with (i) documents relating to the existence, organization and operation of the Authority provided to us by the Authority, (ii) certifications by officers of the Authority, (iii) all necessary documentation of the Authority relating to the authorization, execution and delivery of the Agreement, and (iv) an executed counterpart of the Agreement. Terms used herein and not otherwise defined have the respective meanings set forth in the agreement.

Based upon the foregoing and such examination of law and such other information, papers and documents as we deem necessary or advisable to enable us to render this opinion, including the Constitution and laws of the State of California, together with the resolutions, ordinances and public proceedings of the Authority, we are of the opinion that:

1. The Authority is a joint exercise of powers agency duly created, organized, and existing under the laws of the State of California.
2. The Authority has legal right, power and authority to enter into the Agreement and to carry out and consummate all transactions reasonably contemplated thereby, and the Authority has complied with the provisions of applicable law relating to such transactions.
3. The Agreement has been duly authorized, executed and delivered by the Authority, is in full force and effect as to the Authority in accordance with its terms and subject to the qualifications set forth in the second to the last paragraph hereof, and assuming that each Project Agreement Member has all requisite power and authority, and has taken all necessary action to authorize, execute and deliver such Agreement, the Agreement constitutes the valid and binding obligation of the Authority

4. No approval, consent or authorization of any governmental or public agency, authority or person is required for the execution and delivery by the Authority of the Agreement.

5. The authorization, execution and delivery of the Agreement and compliance with the provisions thereof will not conflict with or constitute a breach of, or default under, any instrument relating to the organization, existence or operation of the Authority, any commitment, agreement or other instrument to which the Authority is a party or by which it or its property is bound or affected, or, to the best of our knowledge, any ruling, regulation, ordinance, judgment, order or decree to which the Authority (or any of its officers in their respective capacities as such) is subject or any provision of the laws of the State of California relating to the Authority and its affairs

6. There is no action, suit, proceeding, inquiry or investigation at law or in equity, or before any court, public board or body, pending or, to our knowledge, threatened against or affecting the Authority or any of its officers in their respective capacities as such, which questions the powers of the Authority referred to in paragraph 2 above or the validity of the proceedings taken by the Authority in connection with the authorization, execution or delivery of the Agreement, or wherein any unfavorable decision, ruling or finding would materially adversely affect the transactions contemplated by the Agreement, or which, in any way, would adversely affect the validity or enforceability of the Agreement.

The opinion expressed in paragraph 3 above is qualified to the extent that the enforceability of the Agreement may be limited by any applicable bankruptcy, insolvency, reorganization, arrangement, moratorium, or other laws affecting creditors' rights, to the application of equitable principles and to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against public agencies in the State of California and provided that no opinion is expressed with respect to any indemnification or contribution provisions contained therein.

This opinion is rendered only with respect to the laws of the State of California and the United States of America and is addressed only to the Authority and the Project Agreement Member. No other person is entitled to rely on this opinion, nor may you rely on it in connection with any transactions other than those described herein.

Respectfully submitted,

EXHIBIT I

FORM OF PROJECT AGREEMENT MEMBER DIRECTION TO AUTHORITY TO PROVIDE
COPY OF BILLING STATEMENT TO DWR

Sites Project Authority
P.O. Box 517
Maxwell, California 95955

The undersigned, an authorized officer on behalf of [PROJECT AGREEMENT MEMBER] (the "Project Agreement Member"), authorizes and directs the Sites Project Authority (the "Authority") to furnish the California Department of Water Resources ("DWR") with a copy of each written statement of the estimated Phase 2 Costs with respect to the Project Agreement Member in accordance with Section 6.2 of the Phase 2 Reservoir Project Agreement, dated as of _____, 2018 (the "Agreement"), among the Authority and certain other entities including the Project Agreement Member, by mail or E-mail at the following address:

California Department of Water Resources
[P.O. Box 942836
Sacramento, CA 94236-0001]
Attention: _____
Email: _____

The Project Agreement Member acknowledges and agrees that the failure of DWR to make any payment on behalf of the Project Agreement Member does not affect the obligation of the Project Agreement Member in accordance with Section 6.2 of the Agreement, which obligation shall remain absolute.

Dated: _____, 2018

[PROJECT AGREEMENT MEMBER]

By: _____
Name:
Title:

Exhibit B: Phase 2 Project Description and Summary Work Plan

Sites Reservoir Project Description

Construct a new reservoir with a capacity up to 1.8 million-acre feet on the west side of the Sacramento River Valley near Maxwell, CA. The offstream reservoir would be filled from three Sacramento River diversions, including the existing Tehama-Colusa Canal and the Glenn Colusa Irrigation District Main Canal. A new intake would be added on the Sacramento River due east of the reservoir at a location north of the City of Colusa. Approximately 13.5 miles of new pipeline would be needed to connect the new intake and Delevan Pumping/Generating Plant to Holthouse Reservoir.

Holthouse Reservoir is a new forebay/afterbay at the location of the existing Funks Reservoir to fill Sites Reservoir and to support both conventional and pumped-storage hydropower generation. Pumped-storage power would be generated at the Sites Pumping/ Generating Plant, located between Sites Reservoir and Holthouse Reservoir. A new regulating reservoir, the Terminal Regulating Reservoir, would also be provided for the Glenn Colusa Irrigation District Main Canal.

Other project features include two new recreation areas and a bridge/roads to connect the east and west sides of the reservoir.

The project would be cooperatively operated with Central Valley Project and State Water Project facilities to provide environmental benefits in addition to water supply. Releases for water supply would be made from Holthouse Reservoir to the southern portions of the Tehama Colusa and Glenn Colusa Irrigation District Main Canals for the Sacramento Valley and through the Delevan Pipeline for downstream users and export.

Figure 1: Map with Facility Overview:

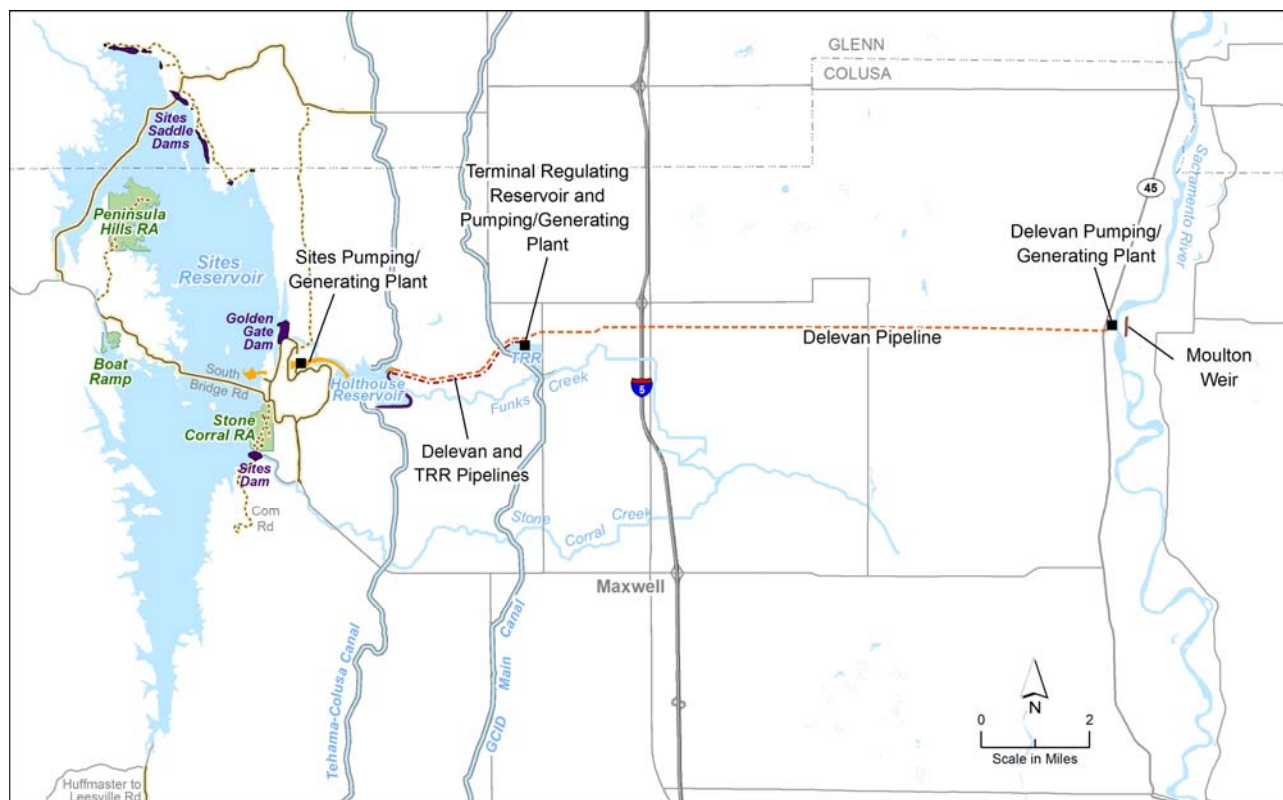


Table 1: Description of Proposed Facilities¹

Facility	Feature	Description
Sites Reservoir	Gross Storage Capacity	1.8 million acre-feet
	Water Surface Elevation	520 feet mean sea level (msl)
	Dam Crest Elevation	540 feet msl
	Minimum Operating Pool	320 feet msl
	Inundation Area (approximate)	14,000 acres
	Inlet/Outlet Type	Multi-level inlet/outlet tower A low-level inlet/outlet structure
	Recreation Facilities	Stone Corral, Peninsula Hills
Golden Gate Dam (Sites Reservoir)	Location	Funks Creek
	Type	Earth/Rockfill Embankment
	Crest Length	2,120 feet
	Maximum Height	310 feet
	Embankment Volume	10,590,000 cubic yards
Sites Dam (Sites Reservoir)	Location	Stone Corral Creek
	Type	Earth/Rockfill Embankment
	Crest Length	850 feet
	Maximum Height	290 feet
	Embankment Volume	3,836,000 cubic yards
Saddle Dams for Sites Reservoir	Location	North End of reservoir from Funks Creek to Hunters Creek
	Type	Earth/Rockfill Embankments
	Saddle Dams	40 to 50 feet high: #1, 4, and 9 70 to 130 feet high: #2, 3, 5, 6, 7, and 8
Emergency Spillway (Sites Reservoir)	Location	Saddle Dam 6
	Size & material	7-foot diameter RCP
	Inlet Elevation	525.5 feet (top of PMF storage)
Sites Reservoir Inlet/Outlet Works	Type	Multi-level Inlet Tower and Low-Level Outlet
	Capacity	15,200 cfs (emergency release)
	Size	30-foot-diameter concrete and steel-lined pressure tunnel
Sites Pumping/	Location	Downstream from Golden Gate Dam

¹ These descriptions are approximate and are consistent with those provided in the Feasibility Report (USBR, 2018) and draft EIR/EIS for Alternative D (Authority, 2017), and the WSIP Application to the California Water Commission (Authority, 2017). During Phase 2, as new information becomes available, these facilities may change should they be approved by the Reservoir Project Agreement Committee and/or by the Sites Project Authority.

Exhibit B: Phase 2 Project Description and Summary Work Plan

Facility	Feature	Description
Generating Plant	Flow Capacity (Pumping)	5,900 cfs pumping
	Flow Capacity and Head (Generating)	5,100 cfs generating 295 feet
	Generating Capacity	123 MW at 5,100 cfs
Holthouse Reservoir	Maximum Height	45 feet
	Max Water Surface Elevation	205 feet msl
	Total Capacity	6,500 AF
	Remaining Storage	6,500 AF
Delevan Pipeline from Sacramento River to T-C Canal	Flow Capacities	2,000 cfs pumping 1,500 cfs releasing
	Length	13 miles
	Size & material	Two 12-foot-diameter RCPs
	From/To	Sacramento River / Holthouse Reservoir
Delevan Intake Pumping/ Generating Plant	Location	West side of Sacramento River, near Highway 45
	Flow Capacities	2,000 cfs pumping 1,500 cfs releasing sustainable releases with short-duration releases of 2,500 cfs
	Fish Screens Required	Yes
Terminal Regulating Reservoir (TRR)	Capacity	1,200 AF
	Footprint	191 acres
	Depth	17 feet
	Maximum Embankment Height	21 feet
TRR Pumping/ Generating Plant	Location	TRR Reservoir
	Capacity	1,890 cfs pumping 900 cfs generating
	Pumping Head (Net)	900 cfs release
	Generation	98 to 114 feet, 9.8 MW
TRR Pipeline	Location	TRR Reservoir
	Flow Capacities	1,890 cfs pumping 1,500 cfs releasing
	Length	5 miles
	Size & material	Two 12-foot-diameter RCPs
	From/To	TRR Reservoir to Holthouse Reservoir
Powerlines (overhead)	Westside Interconnection	WAPA or PG&E connection for Sites PGP and TRR
	Delevan Intake Source	North/South Transmission to Delevan Intake

Sites Reservoir Phase 2 Summary Work Plan

The implementation of Sites Reservoir is a large capital project that will be engineered, permitted, and constructed over a series of four phases. Each phase will achieve important milestones and there will be an opportunity to reassess the requirements and costs of the subsequent phase prior to proceeding to the next phase. Project participants will have an opportunity for rebalancing at the conclusion of each phase.

Project Phases

Phase	Dates	Activities
1	2016-2018	Water Storage Investment Program (WSIP) application and draft environmental document
2A	2019-2020	Final Environmental Impact Report (EIR) (certified)/ Notice of Determination (NOD), Phase 2A geotechnical investigations and studies, surveying and mapping, preliminary engineering, develop performance specification for major equipment, agency coordination for permitting, biological assessment, system impact and facility studies by utilities, and plan to develop the hydropower as either part of the initial construction or deferred.
2B	2022 (Q2) ¹	Complete permits, obtain water rights, Final Environmental Impact Statement (EIS)/ Record of Decision (ROD), Phase 2B geotechnical site investigations and studies, final design of critical facilities (north bypass/construction road, inlet/outlet (I/O) tunnel, Holthouse, Sites pumping/generating (PGP), selection of pump/turbine equipment vendor(s), and modeling of major equipment, design of Delevan Intake and Fish Screen, finalize agreements with utilities for power/generation, develop Principles of Agreement with Reclamation and California Department of Water Resources (DWR), early real estate acquisitions, utility relocations and in support of construction, and site clearing
3	2022-2024	Final design for main and saddle dams, construct alternate roadway/bridge to Lodoga, real estate acquisition for the inundation area, demolition in inundation area, begin dam construction, major equipment manufactured and tested (ongoing), pipe segment fabrication, and acquire balance of real estate (Delevan pipeline and power transmission right-of-way).
4	2024-2030	Completion of the balance of construction, major equipment delivered and installed, commissioning plan, begin filling reservoir, construction of recreational areas,

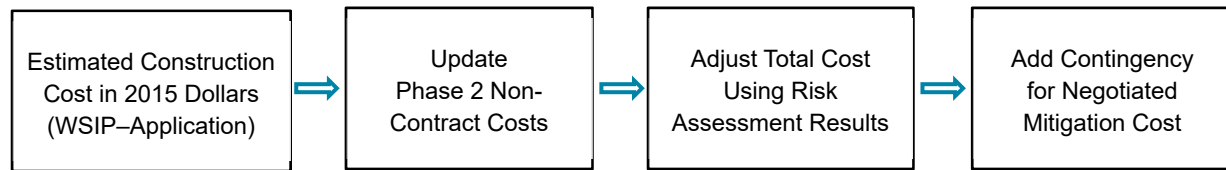
The Phase 2 Workplan and Monthly proposed Cashflow Analysis is based on a Microsoft Project™ schedule for all phases of the project. As the project advances, changes to the schedule will affect the monthly cash flow. However, the Phase 2 cash flow will not exceed the financed amount. This will be accomplished by adjusting the lower-priority work to ensure the highest priority work is completed.

¹ Working assumption is construction financing will not be completed until the end of 2nd quarter of 2022. To mitigate for the risk of delay, the interim financing includes work planned to be performed during this 6 month period.

Cost Estimate

The WSIP application included a Basis of Estimate Report with a detailed estimate for construction costs. Non-contract costs were estimated as percentages of the total construction cost. Per the WSIP regulations, all costs in the Basis of Estimate Report were provided in 2015 dollars.

How Were the Costs Estimated?



Risk Adjusted Costs

The Authority performed a Quantitative Risk Assessment (QRA) for the Sites Reservoir Project. A risk workshop was held on February 6–7, 2018. Information derived from the workshop was used to generate a risk register for the project. An integrated cost and schedule model was developed and a Monte Carlo simulation was used to estimate the risk to the Project's budget and schedule.

The mitigated cost growth of 4.2% were applied to the estimate along with a contingency of \$150M for mitigation uncertainty.

Total Project Cost by Phase in 2015 Dollars with Contingency for Mitigated and Unmitigated Risk

	Phase 2		Informational & Subject to Change			
	Phase 2A	Phase 2B	Phase 3	Phase 4	Total	Escalated to 2018-Q1
Base Cost (2015) with Power Upgrade (\$50M)	\$180M	\$194M	\$1,257M	\$3,199M	\$4,830M	\$5,023M
Unmitigated	\$191M	\$205M	\$1,328M	\$3,381M	\$5,105M	\$5,309M
Mitigated	\$188M	\$202M	\$1,309M	\$3,335M	\$5,034M	\$5,235M
Recommended Budget: Mitigated with Contingency for Environmental Mitigation	\$188M	\$202M	\$1,309M	\$3,484M	\$5,184M	\$5,390M
Phase 2 Work Plan Total (2015 dollars)	\$ 390 M					
Escalation to Nominal Dollars	\$ 406 M					
Funding from Other Sources	\$ 56 M					
Total Phase 2 Finance	\$ 350 M					