



Topic: Reservoir Committee Agenda Item 10-2 2019 September 20

Subject: Phase 2 (2020-2021) Participation Agreement

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**Requested Action:**

Regarding the Phase 2 (2020-2021) Participation Agreement and related documents, should a time extension be approved (refer to item 10.1), provide direction to staff regarding the Phase 2 (2020-2021) Participation Agreement and Work Plan as well as the draft Plan of Finance, and Bank RFP. Or, should the time extension not be approved consider approval of the Participation Agreement, plan of finance, and Bank RFP.

**Detailed Description/Background:**

The documents needed to prepare a complete participation agreement that would utilize interim financing have been developed and include input from the Budget and Finance Workgroup - specifically, the Plan of Finance, Work Plan and Bank RFP. For the participation agreement, it has been reviewed by a small group of Reservoir Committee members' legal counsel as well as the Project's general counsel.

Depending on the results of agenda item 10.1, should there be a decision to extend Phase 2 (2019), this work would be put "on hold" until the appropriate time to incorporate any new information before seeking approval to finalize and release a new agreement and Bank RFP. Or, should there be a decision to not extend Phase 2 (2019), pending any final direction from the Reservoir Committee, these documents could then be finalized for release.

**Prior Reservoir Committee Action:**

At the August 15 and September 12, 2019 joint Authority and Reservoir Committee workshops, preparations to execute a new agreement has been discussed in conjunction with the status of work being performed to improve the operational certainty (and permitability) and to improve the affordability for the Reservoir Committee members.

At the July 19, 2019 Reservoir Committee meeting, there was general agreement to the timeline and development of the documents needed to prepare the Phase 2 (2020-2021) Participation Agreement and to resume work to obtain interim financing. This work would build from the documents prepared in late 2018.

At the August 16, 2018 Reservoir Committee meeting, the Phase 1 agreement was extended beyond December 31, 2018 to February 14, 2019. Then, at the November 16, 2018 meeting, Phase 1 was extended to March 31, 2019 and the Phase 2 Participation Agreement was formally rescinded. This version included a draft plan of finance and would have included terms for interim finance that

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Notes:				Page:	1	of	2

would have been based on the results of proposals received to the Bank Credit Facilities RFP.

**Fiscal Impact/Funding Source:**

No impact to funding for the Phase 2 (2019). The new agreement will include a new work plan that, along with proposals from lenders, would serve as the basis for defining the funding obligation to each agency that is signatory to the new agreement.

**Staff Contact:**

Jim Watson/Joe Trapasso

**Attachments:**

Attachment A – Preparations for 2020 (process chart).

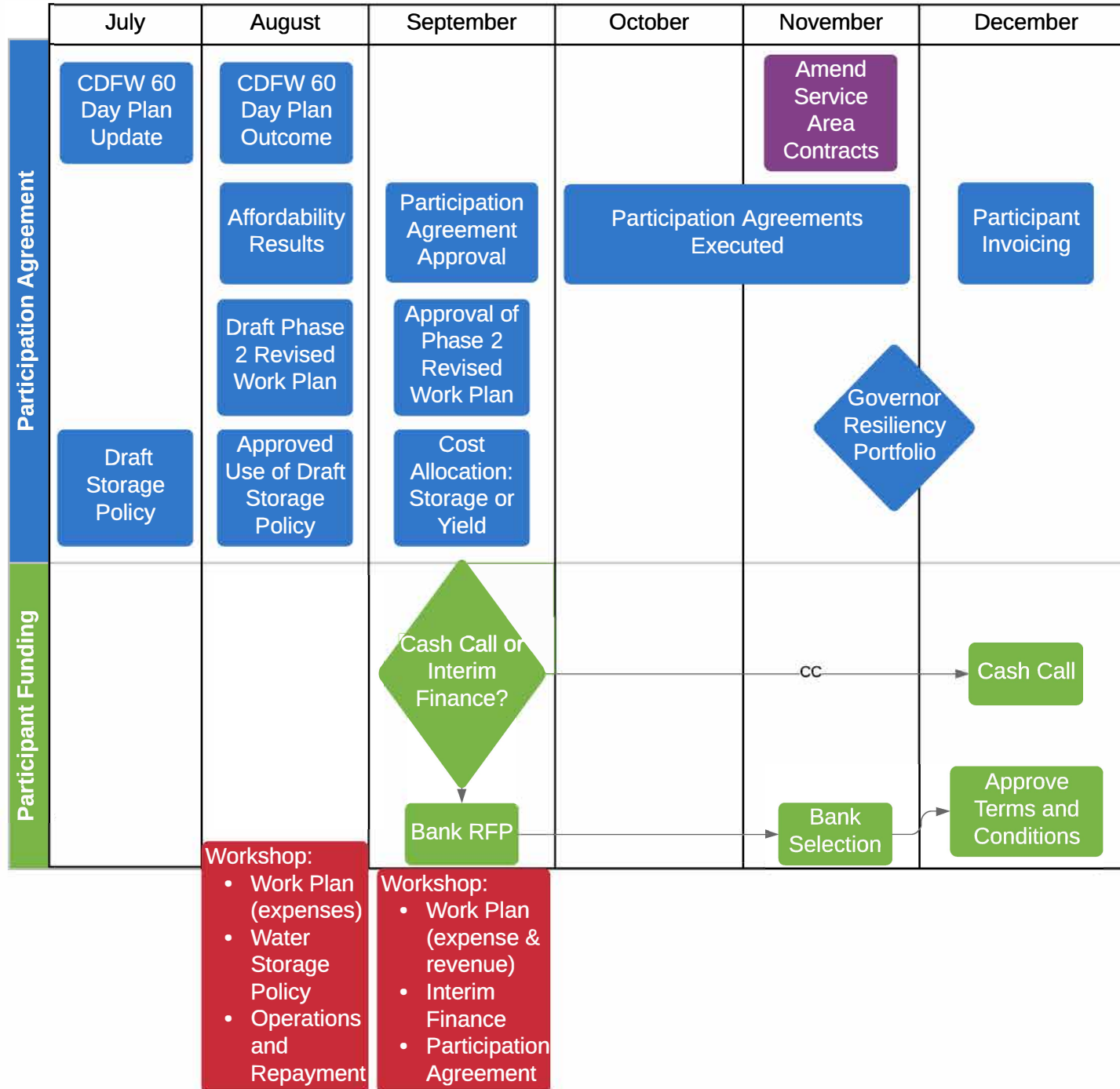
Attachment B – Draft Phase 2 (2020-2021) Participation Agreement.

Attachment C – Draft Plan of Finance.

Attachment D – Draft Bank Line of Credit RFP.

Preparations to Start 2020

Sites Project Authority | September 4, 2019



Stradling Yocca Carlson & Rauth  
Draft of 9/3/19

**SITES PROJECT AUTHORITY**

**PHASE 2 RESERVOIR PROJECT AGREEMENT**

**DATED AS OF JANUARY 1, 2020**

**BY AND AMONG**

**SITES PROJECT AUTHORITY**

**AND**

**THE PROJECT AGREEMENT MEMBERS LISTED HEREIN**

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THIS PHASE 2 RESERVOIR PROJECT AGREEMENT is made effective as of January 1, 2020, 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 September 17, 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. On April 1, 2019, certain Members of the Authority and certain Project Members entered into the 2019 Reservoir Project Agreement.

D. 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, to undertake preliminary design and certain pre-construction activities and to provide for the issuance of bonds, notes or other evidence of indebtedness of the Authority to pay such Phase 2 costs.

E. The Project Agreement Members wish to continue development of the Project pursuant to a Work Plan approved by the Authority on [September 23, 2019] and the Reservoir Project Committee on [September 20, 2019] 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.

F. 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 \_\_\_\_\_, 2019.

G. 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.

H. The Authority and the Project Agreement Members acknowledge that the approval and execution of this Project Agreement does not commit the Authority, the Project Agreement Members or any other party to any definite course of action regarding the Sites Reservoir Project. As set forth in Section 8(a) of this Project Agreement, there are no assurances that the Sites Reservoir Project will be constructed. One of the prerequisites that would need to be fulfilled before the Sites Reservoir Project could be constructed is the completion of environmental review under the California Environmental Quality Act (“CEQA”). As part of this environmental review, the Authority, as the lead agency that is conducting the review, reserves all of its rights, responsibilities, obligations, powers, and discretion under the provisions of CEQA to: (i) evaluate the environmental impacts of the Sites Reservoir Project; (ii) deny and disapprove the Sites Reservoir Project if the environmental review reveals significant environmental impacts that cannot feasibly be mitigated; (iii) adopt feasible mitigation measures and/or an alternative to the Sites Reservoir Project to avoid or lessen significant environmental impacts; or (iv) determine that any significant environmental impacts that cannot feasibly be mitigated are outweighed by the economic, social or other benefits of the Sites Reservoir Project.

## **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 September 17, 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 \_\_\_\_\_, 2019 and the Authority on \_\_\_\_\_, 2019, 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 January 1, 2020, 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.

“Water Storage Policy” means the Storage Policy by the Sites Project Authority, dated August 31, 2019 attached hereto as Exhibit C.

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

## **Section 2**     **Purpose**

The purpose of this Project Agreement is to permit the Authority and the Project Agreement Members to continue development 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. The Treasurer shall not be required to be a member of the Board of Directors of the Authority.

(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, (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 and (5) coordinate the activities between the Committee and both the United States Bureau of Reclamation and the Department of Water Resources.

(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 in **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 Work Plan and 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 2020 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 E** 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 [\$ \_\_\_\_\_] 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 D** is a copy of a draft term sheet for the initial Phase 2 Obligations. **Exhibit E** 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 Member 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 E** 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 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, 2020, 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, 2020. 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 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 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 Project Agreement Member in any Fiscal Year shall not exceed, without written consent of such nondefaulting Project Agreement Member, an accumulated maximum of 25% of the nondefaulting 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, the Participation Percentage of each nondefaulting Project Agreement Member shall be increased 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 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 any 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. 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 Members 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 2020 budget.

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 A, including but not limited to Phase 2 Obligations the interest on which is not excludable from gross income for federal income tax purposes, **Exhibit E** 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 E** 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.

Such amended **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, including water storage as described in the Water Storage Policy, 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, equal to that Project Agreement Member's Participation Percentage, 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 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 no 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 Project Agreement Members.

(c) Termination of Entitlement to Participation Percentage Continuing Obligations. Upon (i) 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 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 Member, 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 multiplied by each Project Agreement Member's Participation Percentage. 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 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 June 30, 2022 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) confirmation of compliance with the membership requirements established in the Bylaws, (b) 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, (c) the affirmative vote of at least 75% of the total number of Directors of the Authority and (d) 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, storage, 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

<b>Name</b>	<b>Acre-Feet</b>	<b>Participation Percentage</b>	<b>Type of Water Provider</b>
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EXHIBIT B

PHASE 2 PROJECT DESCRIPTION

[TO COME FROM AUTHORITY]

EXHIBIT C

WATER STORAGE POLICY

[TO COME FROM AUTHORITY]

EXHIBIT D

INITIAL PHASE 2 OBLIGATION TERM SHEET

[TO COME FROM MDA]

EXHIBIT E

ALLOCATION OF PRINCIPAL OF INITIAL PHASE 2 OBLIGATIONS

[TO COME FROM MDA]

<b>Project Agreement Member</b>	<b>Participating Percentage</b>	<b>Allocable Principal</b>	<b>Allocable Interest*</b>	<b>Bank and Other Fees**</b>	<b>Total</b>
	%	\$	\$		\$
	100%	[\$_____]	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 F  
NOTIFICATIONS

[TO COME FROM AUTHORITY]

Attention: Mr. Steve Hartwig  
City of American Canyon  
4381 Broadway, Suite 201  
American Canyon, CA 94503

Attention: Mr. Tom Charter  
c/o Ms Jamie Traynham  
Davis Water District  
P.O. Box 83  
Arbuckle, CA 95912

Attention: Mr. Dwayne Chisam  
Antelope Valley-East Kern WA  
6500 West Avenue N  
Palmdale, CA 93551

Attention: Mr. Mark Krause  
Desert Water Agency  
1200 South Gene Autry Trail  
Palm Springs, CA 92264

Attention: Mr. Ben Carter  
Carter MWC  
4245 River Road  
Colusa, CA 95932

Attention: Mr. Bill Vanderwaal  
Dunnigan Water District  
P.O. Box 84  
Dunnigan, CA 95937

Attention: Mr. Jim Barrett  
Coachella Valley Water District  
P.O. Box 1058  
Coachella, CA 92236

Attention: Mr. Thad Bettner  
Glenn-Colusa Irrigation District  
P.O. Box 150  
Willows, CA 95988

Attention: Ms. Wendy Tyler  
Colusa County  
547 Market St., Suite 102  
Colusa, CA 95932

Attention: Mr. Matt LaGrande  
LaGrande Water District  
P.O. Box 370  
Williams, CA 9598

Attention: Ms. Shelley Murphy  
Colusa County Water District  
P.O. Box 337  
Arbuckle, CA 95912

Attention: Mr. Steve Arakawa  
Metropolitan Water District of Southern  
California  
1121 L Street, Suite 900  
Sacramento, CA 95814

Attention: Mr. Jim Peterson  
Cortina Water District  
P.O. Box 489,  
Williams, CA 95987

Attention: Mr. Preston Brittain  
Pacific Resources MWC  
4831 Calloway Drive, Ste. 102  
Bakersfield, CA 93312  
Bakersfield, CA 93312

Attention: Mr. Bill Vanderwaal

Reclamation District 108  
P.O. Box 50  
Grimes, CA 95950

Attention: Mr. Dirk Marks

Santa Clarita Valley Water Agency  
27234 Bouquet Canyon Road  
Santa Clarita, CA 91350

Attention: Mr. Doug Headrick

San Bernardino Valley Municipal Water District  
380 East Vanderbilt Way  
San Bernardino, CA 92408-3593

Attention: Dan Ruiz

Westside Water District  
5005 State Hwy 20  
Williams, CA 95987

Attention: Mr. Jeff Davis

San Geronio Pass Water Agency  
1210 Beaumont Ave,  
Beaumont, CA 92223

Attention: Robert Kunde

Wheeler Ridge-Maricopa Water Storage District  
12109 Highway 166  
Bakersfield, CA 93313

Attention: Ms. Cindy Kao

Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118-3686  
Attention: Mr. Dirk Marks

Attention: Ms. Valerie Pryor

Zone 7 Water Agency  
100 North Canyons Parkway  
Livermore, CA 945

EXHIBIT G

FORM OF OPINION OF PROJECT AGREEMENT  
MEMBER COUNSEL

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

\_\_\_\_\_, 2019

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 January 1, 2020 (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]

\_\_\_\_\_, 2019

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 January 1, 2020 (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 January 1, 2020 (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: \_\_\_\_\_, 2020

[PROJECT AGREEMENT MEMBER]

By: \_\_\_\_\_  
Name:  
Title:

DRAFT – This draft work product is part of the deliberative process, which is deemed to be exempt from Public Records Act requests and is subject to the confidentiality agreement between the recipient and the Sites Project Authority. Further distribution to other organizations is not permissible.



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# Phase 2 (2020-2021) Plan of Finance

## Sites Reservoir Project

*Maxwell, California*

September , 2019

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Status:	Internal Draft	Preparer:	EH	Phase:	2	Revision:	
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## Attachments

Attachment A. Summary of Short-Term Debt Instruments

# Executive Summary

The following are key findings and conclusions contained in the Phase 2 (2020-2021) Plan of Finance. This Plan of Finance is also referred to in this document as well as in other Project-related documents, including the current draft of the next Participation Agreement as the “Phase 2 Plan”.

**Pooled Credit Structure with Step-ups** – For Phase 2 financing, it is recommended that a pooled credit approach be pursued. This approach would also incorporate step-ups and would require all participants to join together for borrowing purposes. If cash funding or separate financing by individual Participants for Phase 2 costs is permitted, those Participants not participating in the pooled borrowing would still be obligated to step up to cover payment defaults of Participants in the borrowing pool. This approach would not preclude the use of a different approach for the long-term financing of design and construction costs in Phases 3 and 4.

**Borrowing Approach** – Given the inherent complexity involved with educating potential lenders or investors regarding a pooled credit with dozens of participants, many if not most of whom are not rated, a private placement of debt for Phase 2 financing should be used rather than pursuing a public sale that would require educating hundreds of investors as well as the rating agencies. A private placement would also be more expeditious than a public sale, which will be important to keep the Project on schedule for State and Federal funding.

**Debt Instrument** – We believe that debt instruments such as commercial paper or a revolving line of credit are likely to provide the Authority with a combination of maximum borrowing flexibility and the lowest projected cost.

**Coordination of Borrowing and Phase 2 Agreements** – Because financing must be in place at the beginning of Phase 2 (2020-2021), it will be imperative that the Phase 2 agreements include all key credit-related provisions to facilitate the execution of the Phase 2 line of credit.

## Segmenting of Phase 2

The Rate Agreement divides Phase 2 into two segments, Phase 2A and Phase 2B. Participants will have the ability, giving no less than 60 days’ notice to the Authority, to reduce their participation or opt out the Project at the end of Phase 2A. Withdrawal by a Participant, unless a replacement Participant is identified, will trigger a “rebalancing” process.

**Project Participation will be Binding** – Because Phase 2 lenders will want to understand and evaluate the mix of credits involved in the Project pool of borrowers before making a lending decision, they will require some level of certainty regarding which entities will be obligated for the loan. Therefore, Participants executing Phase 2 Agreements will only be able to utilize the “off-ramp” at the end of Phase 2A (i.e., reduce their participation or exit the Project) if: 1) there is another Participant or an Authority-approved new participant that is willing to assume their Phase 2 financing obligations; 2) the Participant makes payment to the Authority for the amount required to extinguish its Phase 2A obligations under the bank line of credit, or 3) the Participant enters into an agreement acceptable to the Authority providing for continuing payment of the amount its Phase 2A obligations until fully paid.

# 1. Introduction

## Purpose and Scope

The primary objective of the Sites Reservoir Project to provide water storage and a reliable water supply for the agricultural and urban water users of the Sacramento Valley and other areas of the state. The Sites Project Authority is currently in its ninth year of active project development. In the last two years, much has been accomplished regarding project funding with major commitments being made by the State of California through WISP funding and by the Federal government through its USDA loan commitment. To date, funding commitments for the Project total \$1.269 billion with the potential for a significant additional commitment from the Federal government through WIIN Act funding.

The purpose of this document is to define the scope of project planning costs expected to be incurred in 2020, 2021 and early 2022, the planning horizon for what is referred to as Phase 2 (in other Project communications it is also referred to as Phase 2 (2020-2021)) as well as present a financing approach to meet these upcoming expenditures.

Phase 2, for purposes of this plan of finance is defined as [to come from the Phase 2 Participation Agreement]



## 2. Phase 2 Financing Approach

### State and Federal Sources of Project Funding

The Authority aggressively pursued State Water Storage Investment Program (“WSIP”) funding for the Project through the California Water Commission and in 2018 was successful in securing a funding commitment for \$816 million, nearly \$41 million of which will be available for early Project development costs as well as \$775 million for Project construction. In addition, the Bureau of Reclamation currently participates in a Cost Share Memorandum of Understanding with the Authority for Project feasibility studies authorized by Congress under CalFed.

In addition to the WSIP funding, it has also pursued funding for the Project through the federal Water Infrastructure Improvements for the Nation (“WIIN Act”) and has received commitments for \$4.3 million that will be available for early Project development. WIIN Act funding commitments will be subject to annual federal budget appropriation, making them less certain than WSIP funding.

The amount of State and Federal funding secured by the Authority for the Project and more specifically, the amount of funding available for expenditure during the Project’s Phase 2 will be a significant determinant of the amount of interim financing needed. While the amount of State funding committed to the Project is relatively clear, in the coming months, there may be increased clarity regarding Federal funding available for early Project development costs. In this plan of finance, we assume conservative funding estimates based on the Authority’s most recent interactions with the State and the Bureau of Reclamation.

### Project Credit Structure Development

As the Authority works to develop interim and permanent credit structures for the Project that will be acceptable to the capital markets and commercial lenders, an important component of the pledged security to lenders and bond holders will be the legal rights and obligations of the various entities benefiting the Project.

The diversity in size and financial strength of the 21 members of the Reservoir Committee (the “Project Participants”), as well as the number of agencies involved, creates both opportunities and challenges to the structuring of a marketable credit for the Project. At least one of the rating agencies views pooled credits with 20 or more participants, such as the Project, as stronger than smaller pools due to the credit diversification. However, given that the majority of the water agencies involved in the Project do not have credit ratings from any of the three primary rating agencies (Standard & Poor’s, Moody’s Investors Service and Fitch Ratings), investors will be uncomfortable purchasing the Project’s securities unless the stronger, rated agencies participating in the Project are obligated for a significant portion of the Project debt. For this reason, the planned approach for both interim and permanent financing of the Project will be that of a pooled credit structure.

**Pooled Credit Structure with Step-up Provisions** – The Project credit will be structured as a pooled credit with each Project Participant agreeing to pay its share of debt service on Project debt obligations. We believe that a pooled credit can be structured to satisfy the investor community while retaining sufficient Project control and Project entitlements to satisfy local stakeholders.

A key provision of a successful pooled credit will be the commitment of all Participants to “step up” to cover shortfalls in debt service in the event of a failure of other Project Participants to make timely debt service payments. A 25 percent step-up requirement for all Participants is currently envisioned. This step-up provision is designed to give investors comfort that in the event one or more of the weaker entities in the pool are unable or unwilling to meet their financial obligations, the remaining Participants will meet the obligations for them (up to 25 percent of each Participant’s own debt service obligation). In return for stepping-up, Participants would receive the Project entitlements forfeited by the defaulting agency. The rating agencies and investors will expect creditworthy, rated Participants to be required to cover as much as 50 percent of total debt service requirements through a combination of their scheduled debt service payments and step-ups. As a credit facility for Phase 2 is negotiated with a commercial bank or banks, additional clarity regarding the level of step-up required will be obtained.

Because larger, stronger credits can access the capital markets at lower costs, the largest, most creditworthy Project Participants may desire to either cash fund or finance their portion of project costs separately from the balance of the group. Doing so will have the effect of leaving only the lower-rated and un-rated Participants in the pooled credit. It is possible that unless highly-rated Project Participants are responsible for a large portion of the Project’s debt obligation or agree to having a step-up obligation even if they opt to cash fund or finance their obligation separately, the Authority’s ability to secure Phase 2 financing may be weakened. The current draft of the Phase 2 Agreement does not include the option for Participant cash-funding or self-financing of Phase 2 costs.

The following table shows the credit ratings of the current Project Participants listed in order of participation level.

<b>Sites Reservoir Project Participant Credit Ratings</b>				
<b>Participant</b>	<b>Participation (Acre-Feet)</b>	<b>Moody's</b>	<b>S&amp;P</b>	<b>Fitch</b>
Metropolitan Water District of SC	50,000	Aa1	AAA	AA+
San Bernardino Valley Municipal WD	21,400	NR	AAA	NR
Santa Clara Valley WD	16,000	Aa1	AA-	AA+
Westside WD	15,000	NR	NR	NR
San Geronio Pass WA	14,000	NR	NR	NR
Colusa County WD	11,975	NR	NR	NR
Coachella Valley WD	10,000	NR	NR	NR
Colusa County	10,000	NR	NR	NR
Zone 7 WA	10,000	NR	AA+	AA
Desert WA	6,500	NR	AA	NR
Glenn-Colusa ID	5,000	NR	NR	NR
Santa Clarita Valley WA	5,000	NR	AA	AA-
City of American Canyon	4,000	NR	A-	NR
Reclamation District 108	4,000	NR	NR	NR
Wheeler Ridge - Maricopa WSD	3,050	NR	NR	NR
Dunnigan WD	2,717	NR	NR	NR
Davis WD	2,000	NR	NR	NR
La Grande WD	1,000	NR	NR	NR
Antelope Valley-East Kern WA	500	A1	AA	NR
Cortina WD	450	NR	NR	NR
Carter MWC	300	NR	NR	NR
<b>Total</b>	<b>192,892</b>			

The Project subscription from Participants with credit ratings totals 113,400 acre-feet or 58.8% of total subscriptions. The subscription from non-rated Participants totals 79,492 acre-feet or 41.2% of total subscriptions. Debt service coverage from rated participants, including an assumed 25% step-up commitment is 73.5% of the total projected annual interest obligation on the bank Line of Credit.

## **Phase 2 Debt Instrument**

The Authority has evaluated a number of debt instruments that could be used as Phase 2 financing vehicles for the Project. The options fall into five categories and all five debt instruments could be sold via public sale in the capital markets or privately placed with a bank or other financial institution.

- Fixed Rate Notes – Notes that pay interest semi-annually at a fixed rate and would mature at the end of Phase 2.
- Floating Rate Notes – Notes that pay interest monthly with interest on the notes based on a specified interest rate index that is reset periodically.
- Variable Rate Demand Bonds – Variable rate instruments that have interest rates that reset periodically, typically either weekly or daily. However, unlike floating rate notes, VRDBs require bank credit and/or liquidity support to sell in the public markets.
- Commercial Paper (“CP”) – Usually supported by a bank credit or liquidity facility to ensure that buyers of CP are repaid when the CP matures. CP is placed with investors for periods ranging from one to 270 days. When CP matures, it is usually “rolled” or refinanced with a new CP issuance until it is refinanced permanently with long-term debt.
- Lines of Credit - Investment banks and commercial banks have created revolving and non-revolving line of credit products that have the characteristics of CP but can be placed directly with the bank. Since these bank products do not involve the investing public, they do not require bank credit or liquidity support, nor do they require public disclosure documents and ratings.

After weighing the advantages and disadvantages of each financing vehicle, it is recommended that the Authority pursue a bank line of credit for its Phase 2 financing. As mentioned, a bank line of credit could be secured without the need for a public offering document or bond ratings. Further, it is likely to be easier to convey the Sites Project credit story to, and negotiate with, a small group of lending institutions experienced in complex credits.

## **Phase 2 Agreements**

Before Phase 2 financing can be completed, the Authority will need to have negotiated and executed Phase 2 Agreements with all Project Participants. The Participant financing commitments and financing mechanics included in the Phase 2 Agreements along with the current composition of the Participant pool will be the foundation for the credit package presented to potential Phase 2 lenders.

Prior to entering into Phase 2 agreements, the Project Participants will be able to assess their ability to participate in the Project after receiving the details of the bank credit agreement. Additionally, an “off-ramp” will be available for Participants at the end of Phase 2A to reduce or terminate their participation in the Project. Based on our preliminary discussions with potential lenders, as long as: 1) there is another Participant or an Authority-approved new participant that is willing to assume their Phase 2 financing obligations; or 2) the

Participant makes payment to the Authority for the amount due to extinguish its obligations under the bank line of credit, or 3) the Participant enters into an agreement acceptable to the Authority providing for continuing payment of the amount its Phase 2A obligations until fully paid, banks should be willing to provide interim lending for Phase 2 even if there is the possibility of the Project Participant mix changing prior to the beginning of Phase 3, when permanent financing is expected to occur. The Phase 2 Project Participants will be obligated to repay the interim financing in the event it is not refinanced by a Phase 3 financing. The Phase 2 Agreement represents that the Authority will work to secure long-term financing of the costs incurred during Phase 2 should the Project not proceed to Phase 3.

**Phase 2A “Off Ramp”** – The Authority will request that banks allow for the “off ramp” or “opt-out” from the Project and its related funding obligations at the end of Phase 2A (currently December 31, 2020). Since this provision is not commonly found in a bank line of credit, there is no guaranty that it will be acceptable to the potential lenders. The off-ramp concept is currently included in Section 12 of the Phase 2 Agreement.

**Notice of Opt-Out** – The exiting Participant would be required to give notice of its decision to opt-out no less than 60 days prior to the end of Phase 2A. This notice period will: 1) allow time for the Authority to find an agency interested in replacing the exiting Participant; 2) if no replacement agency can be found, allow time for the Authority to notify all remaining Participants of the “rebalancing” that will occur at the opt out date; and 3) provide time for the letter of credit bank to evaluate the changes in the credit pool.

If the letter of credit bank decides that the credit pool has been materially weakened by the changes, it will have the right under the letter of credit agreement to decline to continue lending for Phase 2B. Alternatively, the bank may attempt to renegotiate the terms of the agreement before continuing to lend.

**Opt-Out Payment** – If a Participant opts out at the end of Phase 2A and its participation is not transferred to another agency, it will be responsible for paying its share of the principal amount of the loan the Authority had incurred through the end of Phase 2A and potentially a bank termination fee equal to the unutilized fee through the expiration of the line of credit. A Participant opting out of the Project will be required to make its opt-out payment 30 days before the end of Phase 2A to assure that the Authority has ample time to apply the payment to the bank line of credit and extinguish the exiting Participant’s liability. Alternatively, the Participant may enter into an agreement acceptable to the Authority providing for continuing payment of the amount its Phase 2 obligations until fully paid. Failure of the exiting Participant to take on of these steps would be treated as a default under Section 9 of the Phase 2 Agreement.

**Impact of Opt-out on Remaining Participants** – If one or more of the Participants decides to opt-out at the end of Phase 2A and their Project entitlements and related participation obligations are not assumed by another Participant, there will be a “rebalancing” of Project entitlements and corresponding financial obligations prior to the opt-out date. If all remaining Participants agree to the rebalancing, each will assume a pro rata share of the available entitlements as well as the financial responsibility for Phase 2B expenditures. If all Participants do not agree to the rebalancing, no additional Project expenditures will be made.

## **Challenges to Phase 2 Financing**

**Federal Participation** – As discussed earlier, it is unclear how much federal participation there may be or in what form it may come (e.g., grants, loans or delivered Project components). The Authority and its legal and

financial advisors will work to assure that the implications of various levels of federal participation in the Project are understood and that decisions made by the Authority regarding federal participation will be informed decisions.

**Delays** – The Authority’s WSIP funding has specific scheduling requirements. For example, the Project must have secured its permits and water rights before January 1, 2022 to remain eligible for funding. As such, project delays in Phase 2 could put the WSIP funding at risk.

It should also be noted that any sale of public debt will still be subject to the risk of litigation based on legal and environmental claims and could therefore be delayed by court action. These delays could impact the Authority’s ability to proceed with Phase 3 of the Project and refinance its Phase 2 debt with long-term debt. The risk of delays during Phase 2 will need to be carefully assessed and disclosed to potential interim lenders.

**Environmental and Permitting Risks** – Phase 2 lenders will be concerned about lending to the Authority prior to all environmental permits being in place as this potentially transfers some of the risk associated with the Project to the lenders themselves. However, this is not to say that lenders will not consider lending in these circumstances, but they may require higher interest rates or stricter lending terms in order to do so.

**Water Rights** - Securing of water rights for the operation of the Project is obviously essential for Project feasibility. The Authority has petitioned the State Water Resources Control Board for the water rights needed for the operation of the Project. Project staff estimates that these water rights will be secured by 2021. Similar to assuming environmental and permitting risks discussed above, Phase 2 lenders may have difficulty lending prior to the securing of the needed water rights as it would require them to assume the risk that the water rights will be successfully secured.

## **Schedule**

In order to finalize a Phase 2 bank line of credit that will be available to the Authority at the beginning of 2020, a Request for Proposals for the bank line should be distributed in September and should provide a minimum of three weeks for banks to respond. The Authority and its legal and financial advisors will need to evaluate the bank proposals and the Authority Board and Reservoir Committee will need to select a bank no later than the end of October. The Authority and its legal and financial advisors will finalize the negotiations of the bank agreement by the end of November and Participant Boards will need to approve the form of the bank agreement (along with the Phase 2 Agreement) in their December meetings.

### 3. Scenarios Evaluated

In developing the Phase 2 Plan of Finance, many potential Project funding combinations have been evaluated. While the availability and timing of WSIP funding is mostly known, the level of Federal participation in the Project is still uncertain. The timing and/or availability of WIIN Act funding has meaningful implications for Phase 2 Participants. Because of its importance, three financing scenarios have been evaluated which reflect different levels and timing of WIIN Act funding during Phase 2.

**Scenario 1:** WIIN Act **Desired Investment** in which \$35 million is available in 2020 and an additional \$70 million is available in 2021 for a total of \$105 million.

	WSIP Draws (nominal \$)	WIIN Act Draws (nominal \$)	Interim Loan Draws (nominal \$)	Total (nominal \$)
2020	35,000,000	35,000,000	100,566,004	170,566,004
2021	-	70,000,000	82,087,942	152,087,942
2022 (Jan-Jun)	-	-	110,336,790	110,336,790
<b>Total</b>	<b>\$35,000,000</b>	<b>\$105,000,000</b>	<b>\$292,990,736</b>	<b>\$432,990,736</b>

**Scenario 2:** WIIN Act **Delayed Investment** in which no funds are available in 2020, but \$105 million is available in 2021.

	WSIP Draws (nominal \$)	WIIN Act Draws (nominal \$)	Interim Loan Draws (nominal \$)	Total (nominal \$)
2020	35,000,000	-	135,566,004	170,566,004
2021	-	105,000,000	48,528,711	153,528,711
2022 (Jan-Jun)	-	-	108,896,021	108,896,021
<b>Total</b>	<b>\$35,000,000</b>	<b>\$105,000,000</b>	<b>\$292,990,736</b>	<b>\$432,990,736</b>

**Scenario 3:** WIIN Act **No Investment** in which no funds are available during Phase 2, requiring the \$105 million shortfall to be financed by Participants.

	WSIP Draws (nominal \$)	WIIN Act Draws (nominal \$)	Interim Loan Draws (nominal \$)	Total (nominal \$)
2020	35,000,000	-	135,566,004	170,566,004
2021	-	-	152,087,942	152,087,942
2022 (Jan-Jun)	-	-	110,336,790	110,336,790
<b>Total</b>	<b>\$35,000,000</b>	<b>-</b>	<b>\$397,990,736</b>	<b>\$432,990,736</b>

#### Assumptions Common to All Scenarios:

1. WSIP funding is \$35 million in 2020 (with no additional WSIP funding in 2021 or 2022)
2. Bank Line of Credit assumptions:
  - a. Line of credit interest rate assumed to average 3% on the outstanding loan balance, payable monthly

- b. .75% per annum charged to Participants or the unutilized portion of the line of credit, payable monthly
- c. Initial fee for entering into the bank line of credit is \$75,000

## 4. Evaluation Results

The following are per-acre-foot payment schedules for Phase 2 for the three scenarios evaluated. All scenarios are based on 192,892 AF total Project participation.

### Scenario 1: WIIN Act Desired Investment

<b>Cost for 1 AF of Participation</b>		
Year	Cash Funding Payment	Interest and Fees Payment
	(nominal \$)	(nominal \$)
2020	521	19
2021	426	29
2022 (Jan-Jun)	572	20
<b>Total</b>	<b>\$ 1,519</b>	<b>\$ 68</b>

If a Participant opts out on Dec 31, 2020, each AF would result in \$533 in principal and bank termination fees which if amortized over 30 years at 5% interest results in an annual debt service obligation of \$34.46 per AF.

### Scenario 2: WIIN Act Delayed Investment

<b>Cost for 1 AF of Participation</b>		
Year	Cash Funding Payment	Interest and Fees Payment
	(nominal \$)	(nominal \$)
2020	703	20
2021	252	31
2022 (Jan-Jun)	565	20
<b>Total</b>	<b>\$ 1,520</b>	<b>\$ 71</b>

If a Participant opts out on Dec 31, 2020, each AF would result in \$712 in principal and bank termination fees which if amortized over 30 years at 5% interest results in an annual debt service obligation of \$46.07 per AF.

### Scenario 3: WIIN Act No Investment

<b>Cost for 1 AF of Participation</b>		
Year	Cash Funding Payment	Interest and Fees Payment
	(nominal \$)	(nominal \$)
2020	703	24
2021	788	41
2022 (Jan-Jun)	572	28
<b>Total</b>	<b>\$ 2,063</b>	<b>\$ 93</b>

If a Participant opts out on Dec 31, 2020, each AF would result in \$718 in principal and bank termination fees which if amortized over 30 years at 5% interest results in an annual debt service payment of \$46.47 per AF.



The following are Participant payment schedules for 1) cash funding Phase 2 costs, 2) participating in the bank line of credit and paying interest-only during Phase 2, and 3) paying interest-only on the bank line and then taking an “off ramp” at the end of Phase 2A (currently scheduled for December 31, 2020) without securing replacement participation in the Project or entering into an agreement with the Authority for the continuing payment of the Participant’s Phase 2 costs.

**Scenario 1: WIIN Act Desired Investment**

Agency	Participation		Cash Funding Payment			Interest and Fees Payment			Opt-Out	
	(AF)	(%)	2020 (\$ nominal)	2021 (\$ nominal)	2022 (Jan-Jun) (\$ nominal)	2020 (\$ nominal)	2021 (\$ nominal)	2022 (Jan-Jun) (\$ nominal)	Dec 31, 2020 Opt-out cost (\$ nominal)	Amortized (30yrs at 5%) (\$ nominal)
Antelope Valley-East Kern WA	500	0.26%	260,680	212,782	286,007	9,388	14,279	10,051	266,291	17,231
Carter MWC	300	0.16%	156,408	127,669	171,604	5,633	8,567	6,031	159,775	10,339
City of American Canyon	4,000	2.07%	2,085,436	1,702,257	2,288,053	75,102	114,233	80,412	2,130,330	137,847
Coachella Valley WD	10,000	5.18%	5,213,591	4,255,643	5,720,133	187,755	285,583	201,029	5,325,824	344,617
Colusa County	10,000	5.18%	5,213,591	4,255,643	5,720,133	187,755	285,583	201,029	5,325,824	344,617
Colusa County WD	11,975	6.21%	6,243,276	5,096,132	6,849,859	224,837	341,985	240,732	6,377,674	412,679
Cortina WD	450	0.23%	234,612	191,504	257,406	8,449	12,851	9,046	239,662	15,508
Davis WD	2,000	1.04%	1,042,718	851,129	1,144,027	37,551	57,117	40,206	1,065,165	68,923
Desert WA	6,500	3.37%	3,388,834	2,766,168	3,718,086	122,041	185,629	130,669	3,461,786	224,001
Dunnigan WD	2,717	1.41%	1,416,533	1,156,258	1,554,160	51,013	77,593	54,620	1,447,026	93,632
Glenn-Colusa ID	5,000	2.59%	2,606,796	2,127,821	2,860,067	93,878	142,791	100,515	2,662,912	172,308
La Grande WD	1,000	0.52%	521,359	425,564	572,013	18,776	28,558	20,103	532,582	34,462
Metropolitan Water District of SC	50,000	25.92%	26,067,956	21,278,213	28,600,665	938,777	1,427,914	1,005,146	26,629,121	1,723,085
Reclamation District 108	4,000	2.07%	2,085,436	1,702,257	2,288,053	75,102	114,233	80,412	2,130,330	137,847
San Bernardino Municipal WD	21,400	11.09%	11,157,085	9,107,075	12,241,085	401,796	611,147	430,202	11,397,264	737,480
San Gorgonio Pass WA	14,000	7.26%	7,299,028	5,957,900	8,008,186	262,857	399,816	281,441	7,456,154	482,464
Santa Clara Valley WD	16,000	8.29%	8,341,746	6,809,028	9,152,213	300,409	456,932	321,647	8,521,319	551,387
Santa Clarita Valley WA	5,000	2.59%	2,606,796	2,127,821	2,860,067	93,878	142,791	100,515	2,662,912	172,308
Westside WD	15,000	7.78%	7,820,387	6,383,464	8,580,200	281,633	428,374	301,544	7,988,736	516,925
Wheeler Ridge - Maricopa WSD	3,050	1.58%	1,590,145	1,297,971	1,744,641	57,265	87,103	61,314	1,624,376	105,108
Zone 7 WA	10,000	5.18%	5,213,591	4,255,643	5,720,133	187,755	285,583	201,029	5,325,824	344,617
<b>Total</b>	<b>192,892</b>	<b>100%</b>	<b>100,566,004</b>	<b>82,087,942</b>	<b>110,336,790</b>	<b>3,621,651</b>	<b>5,508,663</b>	<b>3,877,692</b>		

Note: The “opt-out” scenario payments assume that the Participant takes an off-ramp at the end of Phase 2A (currently scheduled for December 31, 2020) and is unable to secure replacement participation in the Project. The “Opt-out Cost” column represents the amount that will be required to repay the letter of credit bank for the Participant’s share of the amount borrowed through the op-out date. The “Amortized” column represents the annual debt service cost if the Participant secures 30-year financing of its opt-out payment.

## Scenario 2: WIIN Act Delayed Investment

Agency	Participation		Cash Funding Payment			Interest and Fees Payment			Opt-Out	
	(AF)	(%)	2020	2021	2022 (Jan-Jun)	2020	2021	2022 (Jan-Jun)	Dec 31, 2020 Opt-out cost	Amortized (30yrs at 5%)
			(\$ nominal)	(\$ nominal)	(\$ nominal)	(\$ nominal)	(\$ nominal)	(\$ nominal)	(\$ nominal)	(\$ nominal)
Antelope Valley-East Kern WA	500	0.26%	351,404	125,792	282,272	10,198	15,405	10,051	355,995	23,035
Carter MWC	300	0.16%	210,842	75,475	169,363	6,119	9,243	6,031	213,597	13,821
City of American Canyon	4,000	2.07%	2,811,231	1,006,340	2,258,176	81,586	123,236	80,412	2,847,959	184,282
Coachella Valley WD	10,000	5.18%	7,028,078	2,515,849	5,645,440	203,965	308,091	201,029	7,119,898	460,706
Colusa County	10,000	5.18%	7,028,078	2,515,849	5,645,440	203,965	308,091	201,029	7,119,898	460,706
Colusa County WD	11,975	6.21%	8,416,124	3,012,729	6,760,414	244,248	368,939	240,732	8,526,078	551,695
Cortina WD	450	0.23%	316,264	113,213	254,045	9,178	13,864	9,046	320,395	20,732
Davis WD	2,000	1.04%	1,405,616	503,170	1,129,088	40,793	61,618	40,206	1,423,980	92,141
Desert WA	6,500	3.37%	4,568,251	1,635,302	3,669,536	132,577	200,259	130,669	4,627,934	299,459
Dunnigan WD	2,717	1.41%	1,909,529	683,556	1,533,866	55,417	83,708	54,620	1,934,476	125,174
Glenn-Colusa ID	5,000	2.59%	3,514,039	1,257,924	2,822,720	101,982	154,045	100,515	3,559,949	230,353
La Grande WD	1,000	0.52%	702,808	251,585	564,544	20,396	30,809	20,103	711,990	46,071
Metropolitan Water District of SC	50,000	25.92%	35,140,391	12,579,244	28,227,200	1,019,824	1,540,453	1,005,146	35,599,490	2,303,529
Reclamation District 108	4,000	2.07%	2,811,231	1,006,340	2,258,176	81,586	123,236	80,412	2,847,959	184,282
San Bernardino Municipal WD	21,400	11.09%	15,040,087	5,383,916	12,081,242	436,485	659,314	430,202	15,236,582	985,910
San Gorgonio Pass WA	14,000	7.26%	9,839,309	3,522,188	7,903,616	285,551	431,327	281,441	9,967,857	644,988
Santa Clara Valley WD	16,000	8.29%	11,244,925	4,025,358	9,032,704	326,344	492,945	321,647	11,391,837	737,129
Santa Clarita Valley WA	5,000	2.59%	3,514,039	1,257,924	2,822,720	101,982	154,045	100,515	3,559,949	230,353
Westside WD	15,000	7.78%	10,542,117	3,773,773	8,468,160	305,947	462,136	301,544	10,679,847	691,059
Wheeler Ridge - Maricopa WSD	3,050	1.58%	2,143,564	767,334	1,721,859	62,209	93,968	61,314	2,171,569	140,515
Zone 7 WA	10,000	5.18%	7,028,078	2,515,849	5,645,440	203,965	308,091	201,029	7,119,898	460,706
<b>Total</b>	<b>192,892</b>	<b>100%</b>	<b>135,566,004</b>	<b>48,528,711</b>	<b>108,896,021</b>	<b>3,934,317</b>	<b>5,942,822</b>	<b>3,877,692</b>		

Note: The “opt-out” scenario payments assume that the Participant takes an off-ramp at the end of Phase 2A (currently scheduled for December 31, 2020) and is unable to secure replacement participation in the Project. The “Opt-out Cost” column represents the amount that will be required to repay the letter of credit bank for the Participant's share of the amount borrowed through the op-out date. The “Amortized” column represents the annual debt service cost if the Participant secures 30-year financing of its opt-out payment.

**Scenario 3: WIIN Act No Investment**

Agency	Participation		Cash Funding Payment			Interest and Fees Payment			Opt-Out	
	(AF)	(%)	2020 (\$ nominal)	2021 (\$ nominal)	2022 (Jan-Jun) (\$ nominal)	2020 (\$ nominal)	2021 (\$ nominal)	2022 (Jan-Jun) (\$ nominal)	Dec 31, 2020 Opt-out cost (\$ nominal)	Amortized (30yrs at 5%) (\$ nominal)
Antelope Valley-East Kern WA	500	0.26%	351,404	394,231	286,007	12,240	20,475	14,134	359,057	23,233
Carter MWC	300	0.16%	210,842	236,538	171,604	7,344	12,285	8,480	215,434	13,940
City of American Canyon	4,000	2.07%	2,811,231	3,153,847	2,288,053	97,916	163,798	113,072	2,872,455	185,867
Coachella Valley WD	10,000	5.18%	7,028,078	7,884,616	5,720,133	244,791	409,495	282,681	7,181,137	464,668
Colusa County	10,000	5.18%	7,028,078	7,884,616	5,720,133	244,791	409,495	282,681	7,181,137	464,668
Colusa County WD	11,975	6.21%	8,416,124	9,441,828	6,849,859	293,137	490,370	338,511	8,599,411	556,440
Cortina WD	450	0.23%	316,264	354,808	257,406	11,016	18,427	12,721	323,151	20,910
Davis WD	2,000	1.04%	1,405,616	1,576,923	1,144,027	48,958	81,899	56,536	1,436,227	92,934
Desert WA	6,500	3.37%	4,568,251	5,125,001	3,718,086	159,114	266,172	183,743	4,667,739	302,034
Dunnigan WD	2,717	1.41%	1,909,529	2,142,250	1,554,160	66,510	111,260	76,804	1,951,115	126,250
Glenn-Colusa ID	5,000	2.59%	3,514,039	3,942,308	2,860,067	122,395	204,748	141,341	3,590,568	232,334
La Grande WD	1,000	0.52%	702,808	788,462	572,013	24,479	40,950	28,268	718,114	46,467
Metropolitan Water District of SC	50,000	25.92%	35,140,391	39,423,082	28,600,665	1,223,953	2,047,476	1,413,405	35,905,685	2,323,342
Reclamation District 108	4,000	2.07%	2,811,231	3,153,847	2,288,053	97,916	163,798	113,072	2,872,455	185,867
San Bernardino Municipal WD	21,400	11.09%	15,040,087	16,873,079	12,241,085	523,852	876,320	604,938	15,367,633	994,390
San Geronio Pass WA	14,000	7.26%	9,839,309	11,038,463	8,008,186	342,707	573,293	395,754	10,053,592	650,536
Santa Clara Valley WD	16,000	8.29%	11,244,925	12,615,386	9,152,213	391,665	655,192	452,290	11,489,819	743,469
Santa Clarita Valley WA	5,000	2.59%	3,514,039	3,942,308	2,860,067	122,395	204,748	141,341	3,590,568	232,334
Westside WD	15,000	7.78%	10,542,117	11,826,925	8,580,200	367,186	614,243	424,022	10,771,705	697,002
Wheeler Ridge - Maricopa WSD	3,050	1.58%	2,143,564	2,404,808	1,744,641	74,661	124,896	86,218	2,190,247	141,724
Zone 7 WA	10,000	5.18%	7,028,078	7,884,616	5,720,133	244,791	409,495	282,681	7,181,137	464,668
<b>Total</b>	<b>192,892</b>	<b>100%</b>	<b>135,566,004</b>	<b>152,087,942</b>	<b>110,336,790</b>	<b>4,721,817</b>	<b>7,898,835</b>	<b>5,452,692</b>		

Note: The “opt-out” scenario payments assume that the Participant takes an off-ramp at the end of Phase 2A (currently scheduled for December 31, 2020) and is unable to secure replacement participation in the Project. The “Opt-out Cost” column represents the amount that will be required to repay the letter of credit bank for the Participant’s share of the amount borrowed through the op-out date. The “Amortized” column represents the annual debt service cost if the Participant secures 30-year financing of its opt-out payment.

The following two tables show the range of payments by Participant if Phase 2 costs are cash funded compared to funding using the bank line of credit. In all cases, the highest payments are attributable to Scenario 3 in which there is no WIIN Act funding available during Phase 2 but the lowest payments occur in Scenario 1 in some cases and in Scenario 2 in others.

Agency	Cash Funding Cost					
	2020 (low-to-high range)		2021 (low-to-high range)		2022 Jan-Jun (low-to-high range)	
	(\$ nominal)		(\$ nominal)		(\$ nominal)	
Antelope Valley-East Kern WA	260,000	360,000	120,000	400,000	280,000	290,000
Carter MWC	150,000	220,000	70,000	240,000	160,000	180,000
City of American Canyon	2,080,000	2,820,000	1,000,000	3,160,000	2,250,000	2,290,000
Coachella Valley WD	5,210,000	7,030,000	2,510,000	7,890,000	5,640,000	5,730,000
Colusa County	5,210,000	7,030,000	2,510,000	7,890,000	5,640,000	5,730,000
Colusa County WD	6,240,000	8,420,000	3,010,000	9,450,000	6,760,000	6,850,000
Cortina WD	230,000	320,000	110,000	360,000	250,000	260,000
Davis WD	1,040,000	1,410,000	500,000	1,580,000	1,120,000	1,150,000
Desert WA	3,380,000	4,570,000	1,630,000	5,130,000	3,660,000	3,720,000
Dunnigan WD	1,410,000	1,910,000	680,000	2,150,000	1,530,000	1,560,000
Glenn-Colusa ID	2,600,000	3,520,000	1,250,000	3,950,000	2,820,000	2,870,000
La Grande WD	520,000	710,000	250,000	790,000	560,000	580,000
Metropolitan Water District of SC	26,060,000	35,150,000	12,570,000	39,430,000	28,220,000	28,610,000
Reclamation District 108	2,080,000	2,820,000	1,000,000	3,160,000	2,250,000	2,290,000
San Bernardino Municipal WD	11,150,000	15,050,000	5,380,000	16,880,000	12,080,000	12,250,000
San Geronio Pass WA	7,290,000	9,840,000	3,520,000	11,040,000	7,900,000	8,010,000
Santa Clara Valley WD	8,340,000	11,250,000	4,020,000	12,620,000	9,030,000	9,160,000
Santa Clarita Valley WA	2,600,000	3,520,000	1,250,000	3,950,000	2,820,000	2,870,000
Westside WD	7,820,000	10,550,000	3,770,000	11,830,000	8,460,000	8,590,000
Wheeler Ridge - Maricopa WSD	1,590,000	2,150,000	760,000	2,410,000	1,720,000	1,750,000
Zone 7 WA	5,210,000	7,030,000	2,510,000	7,890,000	5,640,000	5,730,000

Agency	Interest and Fees Cost						Opt-Out	
	2020 (low-to-high range)		2021 (low-to-high range)		2022 Jan-Jun (low-to-high range)		Dec 31, 2020 Opt-out, Amortized Annual Debt Service (low-to-high range)	
	(\$ nominal)		(\$ nominal)		(\$ nominal)		(\$ nominal)	
Antelope Valley-East Kern WA	9,300	12,300	14,200	20,500	10,000	14,200	17,200	23,300
Carter MWC	5,600	7,400	8,500	12,300	6,000	8,500	10,300	14,000
City of American Canyon	75,100	98,000	114,200	163,800	80,400	113,100	137,800	185,900
Coachella Valley WD	187,700	244,800	285,500	409,500	201,000	282,700	344,600	464,700
Colusa County	187,700	244,800	285,500	409,500	201,000	282,700	344,600	464,700
Colusa County WD	224,800	293,200	341,900	490,400	240,700	338,600	412,600	556,500
Cortina WD	8,400	11,100	12,800	18,500	9,000	12,800	15,500	21,000
Davis WD	37,500	49,000	57,100	81,900	40,200	56,600	68,900	93,000
Desert WA	122,000	159,200	185,600	266,200	130,600	183,800	224,000	302,100
Dunnigan WD	51,000	66,600	77,500	111,300	54,600	76,900	93,600	126,300
Glenn-Colusa ID	93,800	122,400	142,700	204,800	100,500	141,400	172,300	232,400
La Grande WD	18,700	24,500	28,500	41,000	20,100	28,300	34,400	46,500
Metropolitan Water District of SC	938,700	1,224,000	1,427,900	2,047,500	1,005,100	1,413,500	1,723,000	2,323,400
Reclamation District 108	75,100	98,000	114,200	163,800	80,400	113,100	137,800	185,900
San Bernardino Municipal WD	401,700	523,900	611,100	876,400	430,200	605,000	737,400	994,400
San Geronio Pass WA	262,800	342,800	399,800	573,300	281,400	395,800	482,400	650,600
Santa Clara Valley WD	300,400	391,700	456,900	655,200	321,600	452,300	551,300	743,500
Santa Clarita Valley WA	93,800	122,400	142,700	204,800	100,500	141,400	172,300	232,400
Westside WD	281,600	367,200	428,300	614,300	301,500	424,100	516,900	697,100
Wheeler Ridge - Maricopa WSD	57,200	74,700	87,100	124,900	61,300	86,300	105,100	141,800
Zone 7 WA	187,700	244,800	285,500	409,500	201,000	282,700	344,600	464,700

## 5. Proposed Permanent Financing Approach

### Phase 3 Plan of Finance

The Phase 3 plan of finance assumes that the first long-term borrowing to be completed will refinance all outstanding Phase 2 debt as well as finance the first year of Phase 3 planned expenditures. Assuming the Phase 2 work plan is completed on schedule in December 2021, preparations for Phase 3 financing will need to begin six to nine months prior to the beginning of Phase 3. This process will be in preparation for the Authority's first public sale of long-term debt. Preparations for entering the public capital market will include:

- Selection of bond underwriting team
- Preparation of underlying bond documents and public offering documents
- Securing long-term credit ratings from one or more of the primary credit rating agencies
- Marketing program to potential investors

Before the Authority can secure bond ratings, all Phase 3 Participants will need to execute Phase 3 Agreements that include documentation of the key debt-related obligations of the Participants.

If Phase 2 is not completed on schedule at the end of 2021, the above activities will need to be completed based on the revised Phase 3 start date.

Current long-term debt planning for the Project includes annual bond sales to finance each year's capital expenditures. However, depending on market conditions, the borrowings may be less frequent but larger.

The Authority also continues to evaluate a Water Infrastructure Finance and Innovation Act ("WIFIA") loan as a potential low-cost permanent financing vehicle for the Project. The WIFIA program is administered by the U.S. Environmental Protection Agency. If a large WIFIA loan could be secured, it would reduce the amount of bonds that would need to be sold by the Authority in the public market and could potentially lower the Project's overall borrowing cost.

Discussions with municipal market participants regarding the credit requirements of the capital markets for a project such as the Sites Reservoir enforce the need for the Authority to execute Participant agreements that are based on the take-or-pay principal rather than the take-and-pay concept. The take-or-pay principal is the concept of each Project Participant having a contractual obligation to pay for its predetermined share of the Project's capital costs (i.e., bond debt service and other related costs) regardless of Project performance (i.e., amount of water actually stored or availability of water for delivery). This contrasts with the take-and-pay principal in which Project Participants' payments are contingent on the Project performance (i.e., payment is for actual water storage or water delivered). Take-or-pay contracts will be a cornerstone of the Project long-term credit.

## Attachment A

### Summary of Short-Term Debt Instruments

**Fixed Rate Notes** – The Authority could finance Phase 2 costs by issuing notes that pay interest semi-annually at a fixed rate and mature at the end of Phase 2. The Authority would issue long-term bonds to refinance the notes when they mature. The long-term bonds would also fund a portion of Phase 3 Project costs. Interest accrues on the total amount of notes issued even if the proceeds of the borrowing are not spent for several years. However, unspent note proceeds are invested until needed, thereby partially offsetting the impact of the interest being paid on the notes.

**Floating Rate Notes** – The Authority could issue notes that pay interest monthly with interest on the notes based on a specified interest rate index that is reset periodically. Historically, floating rate notes have provided borrowers with a lower cost of financing than fixed rate notes, but this result is not assured. As is the case with fixed rate notes, floating rate notes would likely be sold at the beginning of Phase 2 to cover all Phase 2 projected costs and would be structured to mature at the end of Phase 2. As with fixed rate notes, the floating rate notes would be refinanced with the proceeds of a long-term bond issue that would also fund a portion of Phase 3 Project costs and interest on the full amount of floating rate notes would accrue even though project costs may not be incurred until later in the Phase 2, with earnings on unspent proceeds offsetting to some degree the cost of the interest on the floating rate notes.

**Variable Rate Demand Bonds** – Similar to floating rate notes, variable rate demand bonds (“VRDBs”) are variable rate instruments that have interest rates that reset periodically, typically either weekly or daily. However, unlike floating rate notes, VRDBs require bank credit and/or liquidity support to sell in the public markets. If a highly rated bank (i.e., “A” rated or better) were to provide credit capacity to the project, VRDBs could be attractive as they combine the benefits of working with one or a small group of lenders with the low cost of financing available through the public markets.

**Commercial Paper** – The Authority could also establish a commercial paper (“CP”) program to meet interim financing needs. CP programs are managed by CP dealers at the large investment banking firms and are usually supported by a bank credit or liquidity facility to ensure that buyers of CP are repaid when the CP matures. CP is placed with investors for periods ranging from one to 270 days. When CP matures, it is usually “rolled” or refinanced with a new CP issuance until it is refinanced permanently with long-term debt. In the Authority’s case, all outstanding CP would likely be refinanced with long-term bonds at the end of Phase 2. One of the benefits of CP is that it can be sold by the Authority in multiple “tranches” as Project funding needs arise (“just-in-time” financing) rather than being sold upfront and incurring unnecessary interest expense. However, the Authority would not earn interest on any unspent proceeds as it would with Fixed Rate Notes or Floating Rate Notes.

**Bank Line of Credit** - Investment banks and commercial banks have created revolving and non-revolving line of credit products that have the characteristics of CP but can be placed directly with the bank. Since these bank products do not involve the investing public, they do not require bank credit or liquidity support, nor do they require public disclosure documents and ratings. Another difference is that bank revolving lines of credit generally require the borrower to pay current interest when due rather than rolling interest into the next issuance and eventually paying it when the principal is refinanced with long-term bonds



September 23, 2019

**SITES PROJECT AUTHORITY  
SITES RESERVOIR PROJECT  
CREDIT FACILITY  
REQUEST FOR PROPOSALS**

To Interested Firms:

The Sites Project Joint Powers Authority is requesting proposals from financial institutions interested in providing a line of credit for the Authority's planned Sites Reservoir Project. Interested firms should submit an electronic proposal by email to the Authority **by 4:00 p.m.** (Pacific Daylight Time) on **October 14, 2019 to:**

Joe Trapasso  
Email Address: [jtrapasso@sitesproject.org](mailto:jtrapasso@sitesproject.org)  
Subject: SPA Credit Facility Proposal

with an email copy to Doug Montague of Montague DeRose and Associates at [montague@montaguederose.com](mailto:montague@montaguederose.com).

Proposals should respond to the attached request. Please direct any questions regarding this proposal to Joe Trapasso at (530) 387-1102 or Doug Montague at (805) 496-2211 or via the email addresses above. Thank you for your interest in the Authority's project and financing program.

Sincerely,

Joe Trapasso, Program Operations Manager  
Sites Project Authority

Enclosures



## I. INTRODUCTION

The Sites Project Authority (Authority or SPA) is requesting proposals from financial institutions interested in providing a line of credit (Line of Credit) for the Authority's planned Sites Reservoir Project (Project). The bank facility will provide funding for the planning and permitting of the Project. Additionally, the Authority is also interested in receiving proposals that offer alternative short-term funding products that function like commercial paper.

## II. BACKGROUND

**Sites Project Authority and Reservoir Committee** - The Authority is a joint exercise of powers authority formed on August 26, 2010 pursuant to Government Code Section 6500 et seq and is currently governed by a 9-voting member Board of Directors (11 agencies) that includes local water agencies and counties, all of whom have executed a Joint Exercise of Powers Agreement (refer to **Exhibit 1**). Further, the Authority is the lead agency working with 20 other local and regional stakeholders and statewide water agencies to advance the construction of the Project. Of these 31 entities (refer to **Exhibit 2**), [25] executed participation agreements (Phase 1 Agreements) to fund the activities needed to develop a project that was eligible for both California Water Storage Investment Program funding and Federal Water Infrastructure Investment and Finance (WIIN) Act funding and could be permitted by state and federal resource agencies. The Phase 1 Agreements provided for a Reservoir Committee consisting of one representative of each entity signing the participation agreement. Phase 1 costs have been apportioned to each of the entities based on a requested annualized acre-foot of water the Project could divert into storage for beneficial uses. All Phase 1 expenditures have been funded with state or federal grant monies or cash-funded by the participants. In 2018 and 2019, four Phase 1 participants opted not to continue participating in the Project. For Phase 2, 21 entities are planning to continue to advance the Sites Reservoir Project (Project) and have agreed to also use their respective annualized acre-foot of participation as the basis for apportioning their respective share of the Phase 2 costs (refer to **Exhibit 3**), which will include financing, and which is the basis for this RFP.

Together, the Authority and Reservoir Committee are working with both the U.S. Bureau of Reclamation (Reclamation) and the California Department of Water Resources (DWR) to improve the operation of the state's interdependent water system for both consumptive and environmental beneficial uses. The addition of the Sites Reservoir will increase surface storage within the Sacramento Valley watershed by approximately 15 percent; which will be operated to provide increased water supplies during drier years and periods of drought.

**Sites Reservoir Project** - The proposed Project will consist of the construction of a new [1.8] million acre-foot (AF) reservoir off-stream of the Sacramento River, new ancillary facilities, and integration with the existing Reclamation-owned Tehama-Colusa Canal and Glen-Colusa Irrigation District's Main Canal (Refer to Figure 1). The Project is also expected to be capable of providing electrical power through both conventional and pumped-storage hydropower that can integrate with renewable energy sources and to improve the use and efficiency of water through transfers.

In keeping its commitment to move the Project forward on behalf of the region, the Authority has spent the last seven years working towards this goal by engaging the public, various stakeholders, state and federal agencies and landowners, initiating the required environmental planning process, and conducting feasibility studies, among other efforts. The Authority is working in close coordination with other stakeholders in the region interested in eventual construction of the Project. Participants in the Project through its Authority voting members and Reservoir Committee members represent [39] of California's 53 congressional districts.

The Authority and Reclamation released both a draft Feasibility Report and joint public draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS) in August 2017 coincident with the Authority's submission of its application for Proposition 1 funding to the California Water Commission. In addition to needing to complete the final EIR/EIS and related decision documents per the California Environmental Quality Act (CEQA), California Endangered Species Act (CESA), National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), several other permits/licenses and authorizations will be required prior to the Water Commission encumbering funds for final design and construction, which is expected to occur by January 1, 2022 (Refer to Figure 2 for concept schedule). Many of these permit applications require a sufficient level of engineering design, field surveys (some multiple year), public review, and agency input and review which can, in many cases, take multiple years to complete. As such, multiple activities need to be initiated to maintain the Project's schedule including continued engineering design to finalize all facility locations, permit application development and required surveys, and analysis of anticipated impacts and proposed/required minimization and mitigation measures to those impacts.

The Project's direct construction cost is approximately \$5.5 billion in 2018 dollars (\$6.46 in nominal dollars). Funding for the Project is expected to come from local, state, and federal sources using the beneficiary pays principle to allocate the resulting benefits.

Initial State funding occurred on July 24, 2018, when the Authority secured a commitment for \$816 million of funding from the California Water Commission (CWC) under its Water Storage Investment Program funded by Proposition 1 (WSIP or Prop 1) which was approved by California voters in November 2014. The CWC also approved the Authority's use of \$40.8 million of the \$816 million for early funding to support environmental compliance, permitting and other approvals.

Federal funding is also being provided. On behalf of the Authority, Reclamation received \$4.35 million in early funding through FY2018 appropriations and has requested additional funding, commensurate with a potential federal level of participation. Currently, Reclamation is evaluating an increase in the federal participation from approximately 15% to 25% of the Project's costs associated with providing new water storage and consistent with the requirements of Section 4007 of the WIIN Act. In addition, in November 2018, the U.S. Department of Agriculture approved a \$449 million USDA Community Facilities Direct Loan for the permanent financing of the Maxwell Intertie, one of the main components of the Sites Project. The Maxwell Intertie is expected to provide economic benefits to rural communities through improved agricultural productivity associated with improved and more efficient water use.

**Phase 2 Agreement** - On September 20, 2019 and September 23, 2019 respectively, the Reservoir Committee and the Authority approved the form of a new Phase 2 Reservoir Project Agreement (Phase 2 Agreement) intended to cover the activities related to securing all permits/licenses and approvals required to move the Project forward to final design and construction (Phases 3 and 4). The form of Phase 2 Agreement is included as **Exhibit 4**. The members of the Reservoir Committee (Project Agreement Members) who plan to continue through Phase 2 will be expected to execute the Phase 2 Agreement prior to the closing of the Line of Credit. **Exhibit 3** contains a list of the prospective Phase 2 participants and their preliminary, non-binding indications of entitlement interest as of September [ ], 2019.

Phase 2 will be divided into two timeframes – Phase 2A and 2B. Phase 2A will cover the period from [January 1], 2020 through December 31, 2020. Approximately \$[150] million of the funds made available from the requested line of credit are expected to be used during Phase 2A. Phase 2B will cover the period from January 1, 2021 through July 1, 2022 and approximately \$[200] million will be expended during the Phase 2B time period.

While the executed Phase 2 Agreements will be in effect for the entire Phase 2 period ([January 1], 2019 through July 1, 2022), the Agreements will allow participants to reevaluate their participation in the Project and limit their participation and liability to Project costs incurred through the end of Phase 2A or reduce their participation level for Phase 2B. Phase 2 participants who continue to participate in the Project through Phase 2B will have the opportunity to increase their level of participation to absorb the Project entitlements made available by any members exiting the Project at the end of Phase 2A. With the approval of the Authority and the Reservoir Committee, new participants may also join the Project, if there is sufficient Project capacity. If there are changes in the composition of the Project participant pool at the end of Phase 2A, the provider of the Line of Credit will have the ability to reevaluate the revised pool of participant credits and determine whether or not to continue lending for Phase 2B costs.

The Authority is issuing this Request for Proposals to secure the financing needed to complete these activities and desires to close on the Line of Credit by [December 31], 2019.

Amounts drawn under the line of credit are expected to be refinanced with long-term revenue bonds by mid-2022 to allow final engineering, right-of-way acquisition, and construction to begin. In the event the Project does not progress to Phases 3 or 4, the Authority plans to refinance the line of credit with long-term debt secured by the Phase 2 Agreements.

For online information regarding the Authority and the Project, please see <https://www.sitesproject.org>.

### III. SECURITY

All Phase 2 Participants will be required to execute Phase 2 Agreements. Payments made to the lender will be payable solely from payments to be made to the Authority by Project Agreement Members pursuant to the Phase 2 Agreements.

The Phase 2 Agreements include provisions and mechanics to address the Line of Credit obligations of the Participants. Key security features include the following:

**Unconditional Payment Obligation** – The Phase 2 Agreements contain an unconditional “take or pay” pledge to make all payments to the lender required under the Credit Agreement regardless of the status of Project development (see Phase 2 Agreement Section 6.7(d)).

**Step-up Provisions** – The Phase 2 Agreements include a commitment of all Participants to “step up” to cover shortfalls in the periodic interest payments that will be due during the term of the Line of Credit in the event of the failure of other Project Participants to make timely interest payments. The Participation Agreements contemplate a 25% step-up obligation, which is to say that each Participant may be asked to pay up to 25% more than its scheduled interest payments. In return for stepping-up, Participants will receive the entitlements in the Project forfeited by the defaulting member (see Phase 2 Agreement Section 6.3).

**Debt Service an Operating Expense** – To the extent permitted, the Participants will treat the Line of Credit debt service obligations as operating expenses in their priority of payments (see Phase 2 Agreement Section 6.7(a)).

**Land-Based Charges** - Certain of the water districts participating in the Project are contemplating the formation of improvement districts that will allow these entities to impose land-based charges on landowners in their respective service areas that elect to receive water from the Project. Such land-based charges will be fixed charges which will significantly enhance the credit characteristics of the participant pool (see Phase 2

Agreement Section 6.7(a)).

**Payments Made in Advance** –Participants will be billed by the Authority by November [15<sup>th</sup>] of each year for their share of projected interest in the following calendar year. Payments from the Participants will be due by January [15<sup>th</sup>] of the following year. This advance payment mechanism is expected to provide sufficient timing cushion to allow for the step-up process should there be Participant defaults that go uncured for 30 days after the January [15<sup>th</sup>] payment deadline (see Phase 2 Agreement Section 6.2).

**Ratings** - The Authority does not plan to apply for credit ratings in connection with the Phase 2 financing.

#### **IV. FINANCING TEAM**

The Authority’s Municipal Advisor is Montague DeRose and Associates. For questions regarding the Phase 2 Plan of Finance please contact Doug Montague at (805) 496-2211 or [montague@montaguederose.com](mailto:montague@montaguederose.com).

Bond Counsel for the Authority is Stradling Yocca Carlson & Rauth. For questions regarding the Phase 2 Agreements please contact Doug Brown at (949) 500-0855 or [dbrown@sycr.com](mailto:dbrown@sycr.com).

#### **V. REQUIRED RESPONSES**

Please provide the following in developing a response to this RFP:

1. *Firm Experience and Ratings*

Please indicate your firm’s prior experience in providing bank tax-exempt and taxable lines of credit for projects in excess of \$100 million since 2016. Please be as specific as possible, describing the issuer, program size, and the nature of the project being financed. Provide the long-term and short-term ratings of your firm.

2. *Assigned Personnel*

Identify the members of your firm who will be assigned to this engagement, and provide the name, address, telephone number and e-mail address of each. Include a brief biography of each person that specifically addresses relevant water financing experience and a listing of the responsibilities that he or she will be assigned for this engagement. Indicate how you will ensure the accessibility of key personnel to the Authority during this engagement.

3. *Credit Facility Fees and Expenses*

The Authority is evaluating two possible Line of Credit sizes and terms. Therefore, using the Line of Credit Pricing Matrix provided as **Form B**, please provide Line of Credit commitment fee indications for:

1. A \$[100] million Line of Credit effective [January 1], 2020 and expiring July 1, 2021; and/or
2. A \$[193] million Line of Credit effective [January 1], 2019 and expiring July 1, 2022.

If your firm desires to propose an alternative bank product, please provide a description and information using **Form C**. as part of your proposal.

If it will result in more favorable facility pricing or terms, the Authority is willing to abide by the “no sooner than/no greater than” cumulative draw schedule for the Line of Credit as provided in **Exhibit 5**. Please indicate if your proposal is conditioned on adherence to the draw schedule found in the exhibit.

The Authority would prefer that pricing be proposed on a Utilized/Unutilized basis.

In addition to the ongoing commitment fee indications, please also provide pricing indications for the fees listed in items a-f below.

- a. Draw fees
- b. Bank interest rate (should be quoted on a Prime Rate or Fed Funds basis)
- c. Default rate
- d. Provide your term-out interest rate(s) and repayment terms. For the amortization end date, please specify a minimum of no earlier than five years.
- e. Legal and non-legal fees and expenses (specify nature of expense and whether it is an annual or one-time expense)
- f. Identify two firms that you would propose to serve as bank counsel, along with the lead attorney for each firm.

#### 4. *Additional Information*

Please provide any proposed changes to the Form of Phase 2 Agreement (**Exhibit 4**) as an attachment to your proposal.

Please provide a detailed list of the documentation (e.g., credit information, legal opinions, etc.) that would be required in order to successfully close the transaction. If available, please provide a sample bank facility document.

#### 5. *Terms and Conditions*

Indicative Terms and Conditions are provided in **Form A**. Please note any terms of your proposal that differ from the indicative Terms and Conditions. It is extremely important that all proposed modifications to the indicative Terms and Conditions be clearly stated. Failure to do so may result in your proposal being considered non-responsive.

#### 6. *Approval Process*

What is your firm’s process for credit approval? What information will be required before final credit approval can be secured? How long will that process take?

## VI. SCHEDULE

The expected schedule is outlined below. Each proposer must commit to being able to obtain final credit approval on this schedule:

<u>Date</u>	<u>Event</u>
Sept 23, 2019	RFP issued
Oct 3, 2019 (1:00 pm PDT)	Optional bidders conference and project tour, 122 Old Highway 99 W, Maxwell, CA (Authority's Office)
Oct 14, 2019 (4:00 pm PDT)	Lender proposals due
Oct 21, 2019	Selection of lender
Dec 31, 2019	Deadline for execution of Phase 2 Agreements
Jan 1, 2020	Deadline for Line of Credit closing

Please indicate if your firm is interested in participating in the bidders conference in person and receiving a tour of the proposed project and if so, the number of people from your firm who will be attending.

Banks are requested to keep their credit offers open until April 1, 2020.

## VII. DELIVERY INSTRUCTIONS

Submission of proposals in response to this RFP will be accepted by **e-mail only**. Proposals will be accepted until 4:00 p.m. (Pacific Daylight Time) on October 14, 2019 at:

Email Address: [jtrapasso@sitesproject.org](mailto:jtrapasso@sitesproject.org)  
Subject: SPA Credit Facility Proposal

with an email copy to Doug Montague at [montague@montaguederose.com](mailto:montague@montaguederose.com).

Please call Joe Trapasso at (530) 387-1102 if you do not receive an e-mail confirming that your firm's proposal was received. Firms that do not receive confirmation accept the risk that any proposal not received on a timely basis will not be considered.

## VIII. PROPOSAL EVALUATION

Proposals in response to this RFP will be evaluated based on the following criteria (not listed in order of importance):

- Qualifications and experience of firm
- Ability to provide required services
- Scope and materiality of proposed changes to attached term sheet
- Cost and pricing

A proposal will be deemed non-responsive and will not be further evaluated or considered if it does not address the requirements of Section V; including Forms A through C. If a respondent does not propose any changes to the Form of Phase 2 Agreement (**Exhibit 4**), it does not need to be included. A proposal that does

not include any revisions to Exhibit 4 will be deemed by the Authority as having no modifications required to the Phase 2 Agreement.

**IX. RULES AND CONDITIONS**

- A. The Authority reserves the right to reject any and all proposals, to waive any irregularities in a proposal, to request clarifications or additional information from any institution and to effect any agreement deemed by the Authority to be in the Authority's best interest.
- B. The Authority will not reimburse institutions for any costs associated with the preparation or submittal of any proposal nor for any travel and/or per diem expenses incurred in any presentations of such proposal.
- C. Nothing in this RFP, the proposal, or the Authority's acceptance of any proposal in whole or in part shall obligate the Authority to complete negotiation with the related institution. The Authority will not provide an engagement letter to any institution. The Authority reserves the right, in its sole discretion, to end negotiation with an institution at any time up to the consummation of the transaction arising from this RFP without any obligation to pay any fees or expenses to the institution or its counsel.
- D. All material submitted in response to this solicitation will become the property of the Authority and will not be returned. Material will be a public record subject to the disclosure provisions of the California Public Records Act (Government Code, Section 6250, et seq.)

**Attachments:**

- Form A – Revolving Line of Credit Term Sheet
- Form B – Revolving Line of Credit Pricing Matrix
- Form C – Alternative Bank Product Pricing Matrix
  
- Exhibit 1 – Joint Exercise of Powers Agreement
- Exhibit 2 – Sites Project Authority Board & Reservoir Committee Members
- Exhibit 3 – Phase 2 Reservoir Committee Participation Levels
- Exhibit 4 – Form of Phase 2 Agreement
- Exhibit 5 – Sites Project Phase 2 Draw Schedule
- Exhibit 6 – Sites Project Proforma Cashflows

Figure 1: Sites Reservoir Project - Proposed Facilities

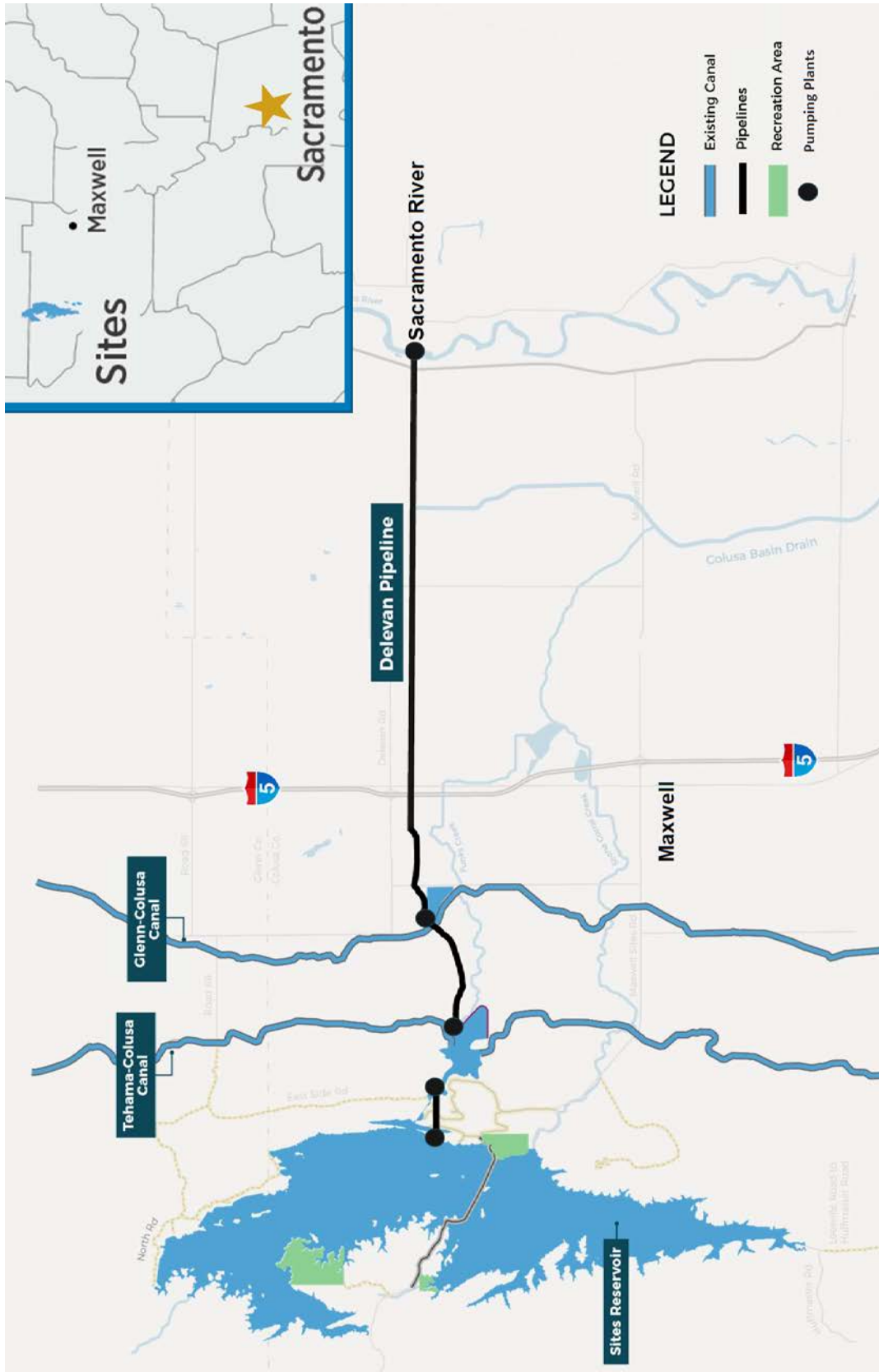
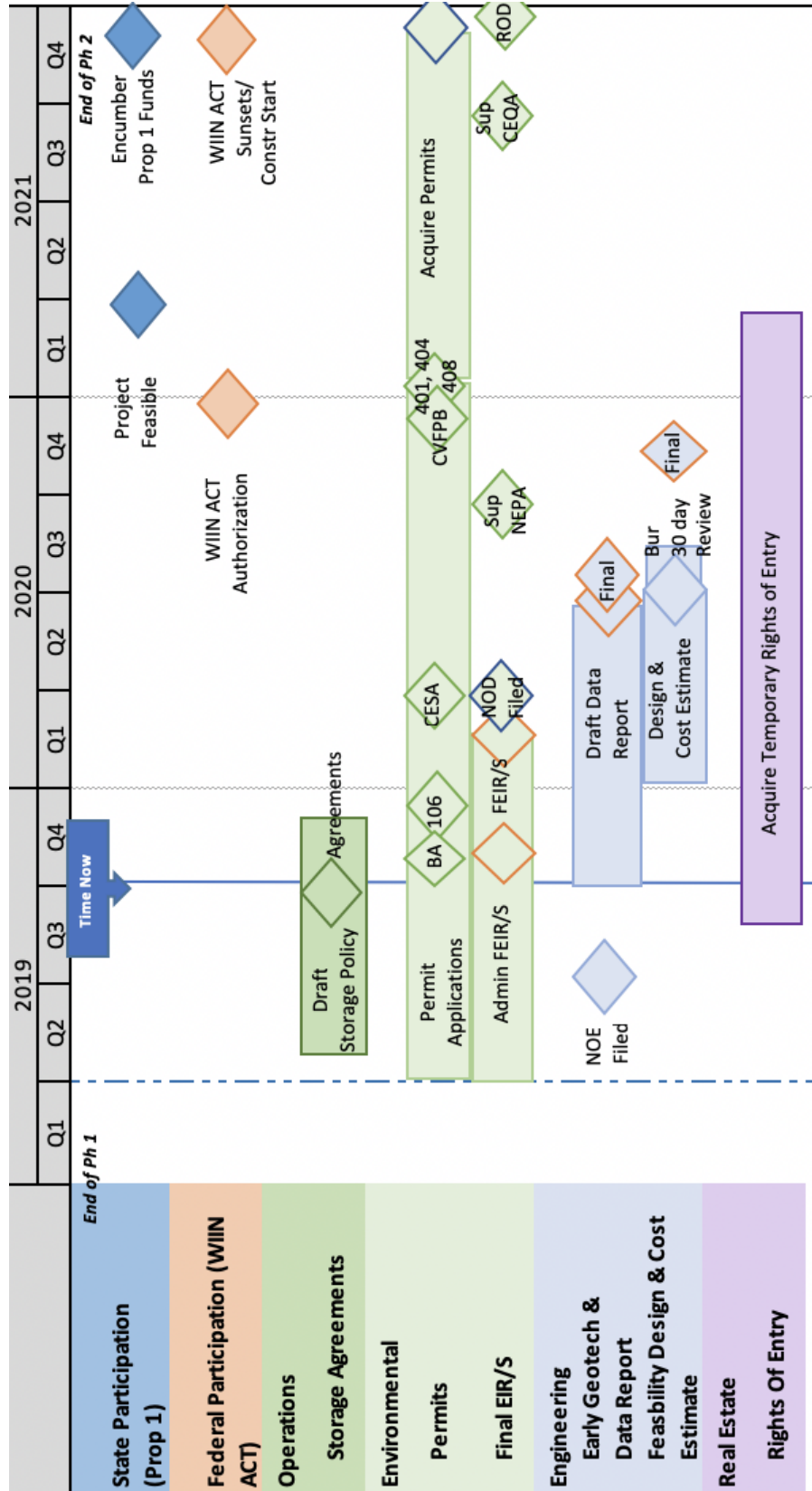




Figure 2: Sites Reservoir Project – Phase 2 Concept Schedule





Form A

**REVOLVING LINE OF CREDIT TERM SHEET  
REQUEST FOR PROPOSALS  
Sites Project Authority  
Sites Reservoir Project**

- Obligor:** Sites Project Authority (the Obligor).
- Facility and Purpose:** A Line of Credit (Facility) that allows both tax-exempt and taxable draws. The obligation of the Obligor to repay each amount advanced under the Facility will be evidenced by a Note (as defined below) payable to the Bank.
- Facility Amount:** Maximum principal amount of up to [\$350,000,000], depending on Maturity Date of Facility.
- Documentation:** The Financing Documents will consist of 1) the Credit Agreement (Agreement), which will, subject to the terms and conditions set forth in the Agreement, obligate the Bank to make advances (Advances) by purchasing a Note up to the Facility Amount and 2) a promissory note issued by the Obligor to the Bank in an amount equal to the outstanding amount of the Advance made under the Agreement plus interest thereon (Note). The Agreement will contain standard closing conditions, conditions to making Advances, representations and warranties, covenants, events of defaults and remedies.
- First Interest Payment Date:** February 1, 2020 and the first Business Day of each month calendar thereafter
- Maturity Date:** July 1, 2021 or July 1, 2022
- Tax Treatment:** The Facility should allow for both taxable and tax-exempt draws. For the tax-exempt draws, the Obligor shall take all steps necessary to maintain such tax-exempt status. The Bank shall be provided an opinion of tax counsel satisfactory to the Bank and its counsel which concludes that interest on each tax-exempt Advance is excludable from gross income for federal income tax purposes.
- Security:** First lien on all payments received by the Authority from Project participants executing the Phase 2 Agreement.
- Advance Mechanics:** The Bank shall make Advances pursuant to the Agreement to purchase Notes from the closing to the Maturity Date in an aggregate amount not to exceed the Maximum Facility Amount.
- Advances: Minimum amount of \$10,000,000 (subject to negotiation with the Obligor).
  - Frequency: Up to four advances per calendar month.

- Notice: 5 Business Days

*INTEREST RATES AND OTHER KEY PROVISIONS:*

**Drawn Rate:** The Advances shall initially bear interest at a per annum rate of interest equal to the sum of (i) the product of the [Index] and the Applicable Factor and (ii) the Applicable Spread (Drawn Rate).

<b>Draw Type</b>	<b>Applicable Factor and Index</b>	<b>Applicable Spread</b>
Tax-	[ ]% of [Index]	[ ] basis points
Taxable	[ ]% of [Index]	[ ] basis points

The Advances shall bear interest at the Drawn Rate so long as no Event of Default exists.

Interest on Advances shall be payable on the first Business Day of each calendar month.

The Drawn Rate will be subject to adjustment as described below.

At any time when [Index] is less than 0.0%, [Index] shall be deemed to be 0.0% for purposes of calculating the Index Rate.

**Undrawn Fee:** The Obligor shall pay to the Bank an Undrawn Fee based upon the Bank's Undrawn Commitment (i.e. the difference between the total Commitment under the Agreement less the outstanding principal amount of Advances made by the Bank) equal to pricing outlined below, calculated on the basis of a 360 day year and the actual days elapsed, which Undrawn Fee shall be paid quarterly in arrears on the first Business day of the following calendar quarter.

**Term Out:** So long as no default or event of default shall have occurred and is continuing on the scheduled Commitment Termination Date and all representations and warranties are true and correct on such Commitment Termination Date, any outstanding Advances shall automatically be converted to be a fully amortizing term loan, which shall be repaid in full by the [ ] anniversary of the date of the Commitment Termination Date. The Term Loan shall be amortized quarterly. Interest on the outstanding Advances from the scheduled Commitment Termination Date shall accrue at the Bank Rate (as described below) and is payable monthly in arrears on the first business day of each month.

**Ratings:** The Authority does not currently carry any public debt and is not expected to have a public rating during the term of this facility. Pricing provided should not assume maintenance of any rating.

**Computation Basis:** Computations of interest shall be calculated on the basis of a 360-day year and actual days elapsed.

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**Default Rate:** Drawn Rate plus [ ]%.

*OTHER FEES AND EXPENSES:*

**Termination/  
Reduction Fee:** Obligor will have the right to terminate the facility at any time with 30 days' written notice.

If the Facility is terminated for any reason within the first year following its delivery, on the date of termination, the Obligor will be required to pay (i) all amounts then due and owing to the Bank and (ii) [ ].

If the Facility is permanently reduced within the first year following its delivery, the Obligor will be required to pay all amounts due the Bank to such date relating to such reduced amount plus [ ].

*PAYMENT OF FEES AND EXPENSES:*

**Prepayment:** Permitted in whole or in part on any interest payment date, with prior notice but without premium or penalty and including accrued and unpaid interest, subject to limitations as to minimum amounts of prepayments.

**Maximum Rate:** [ ]%.

**Repayment:** Subject to the above provisions under the caption "Term Out", all amounts not otherwise repaid to the Bank with respect to the Advances shall be due and payable in full on the Maturity Date. Any amounts with respect to the Advances, the Term Loan or other amounts due and owing under the Agreement not repaid when due shall be due and payable on demand and shall bear interest at the Default Rate.

*EVENTS OF DEFAULT:*

**Events of Default:** The Facility will include customary events of default including, but not limited to, failure to pay facility fees and other amounts payable under the Agreement; failure to pay any debt of the Obligor payable from or secured by revenues of the Authority on a basis that is senior to or on a parity with the Advances; any material representation or warranty of the Obligor is not true when made; invalidity; debt restructuring, debt adjustment or other comparable restriction imposed on repayment of debt of the Obligor; repudiation or moratorium; breach of covenants; cross-default with respect to senior or parity debt.

**Remedies Upon Event  
of Default:**

Remedies upon default shall include the Bank's right to declare all amounts owed under the Facility to be due and payable immediately; exercise any other rights or remedies available at law or in equity or under the Financing Documents.

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*DOCUMENTATION AND COVENANTS:*

**General:** Documentation will include the Credit Agreement prepared by Bank Counsel. The Credit Agreement will include, but not be limited to, the terms and conditions outlined herein as well as provisions that are customary and standard with respect to conditions precedent, representations and warranties, covenants, events of default and remedies (including acceleration of the Obligor's obligations under the Facility, if applicable).

**Conditions Precedent to Closing:** Standard for facilities of this type, including but not limited to, delivery of satisfactory loan documents; delivery of the most recent audited financial statements for the Obligor; receipt of certificate of incumbency authorizing parties to sign the Credit Agreement and delivery of satisfactory opinions of counsel.

**Financial Covenants:** The Obligor shall charge and collect amounts under the Phase 2 Agreement sufficient to achieve 1.00 times aggregate debt service and all other obligations of the Authority.

**Reporting Requirements:** Usual and customary for a transaction of this nature, including but not limited to; delivery of audited annual financial statements and certificate of no default within 270 days of fiscal year-end, notices of default, material litigation proceedings, and notification of EMMA disclosures.

**Other Covenants:** The Financing Documents will include customary affirmative covenants including, without limitation, the delivery of financial statements, reports, accountants' letters, officers' certificates and other information requested by the Bank; payment of other obligations; continuation of business and maintenance of existence and material rights and privileges; compliance with laws (including environmental laws and material contractual obligations); maintenance of property and insurance; maintenance of books and records; right of the Bank to inspect property and books and records; notices of defaults, litigation and other material events; compliance with all covenants of the related transaction documents; incorporation of covenants in related transaction documents by reference; OFAC related provisions; agreement not to assert the defense of sovereign immunity; and compliance with rate covenant.

The Financing Documents will contain customary negative covenants, including, without limitation, restrictions on the following: no amendments to related transaction documents; limitations on liens and encumbrances; limitation on additional indebtedness; [and limitations on sale, lease and transfer of assets].

**Taxability:** In the event a determination of taxability shall occur on a tax-exempt draw, all Advances and any Term Loan shall bear interest at the Taxable Rate, and in addition to the amounts required to be paid under the Financing Documents, the Obligor shall be obligated to pay to the Bank

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an amount equal to a) the positive difference, if any, between the amount of interest that would have been paid during the period of taxability if the Advances or Term Loan, as applicable, had borne interest at the Taxable Rate and the interest actually paid to the Bank and b) any payments, including any taxes, interest, penalties or other charges.

**Taxable Rate for  
Tax-Exempt Draws:**

The product of (i) the Drawn Rate or Term Loan Rate, as applicable, and (ii) 1.[ ].

*CHOICE OF LAW/JURY TRIAL/VENUE:*

**Governing Law:**

This Term Sheet, the Credit Agreement, and any other documents to which the Bank shall become a party will be governed by the laws of the State of California.

**Jury Trial:**

The Obligor agrees and to waive a jury trial in any proceeding involving the Bank and in the event such waiver of jury trial is unenforceable, judicial reference as provided in California Code of Civil Procedure Section 638.

**Venue:**

Any litigation involving the Bank shall be brought in the appropriate California state or federal court having jurisdiction over the matter.

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**Form B**

**PRICING MATRIX FOR LINE OF CREDIT  
REQUEST FOR PROPOSALS  
Sites Project Authority  
Sites Reservoir Project**

Name of Bank: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Expiration Date	7/1/2021	7/1/2022
Maximum Commitment Amount		
Tax-exempt Draw Index		
Tax-exempt Draw Spread (%)		
Taxable Draw Index		
Taxable Draw Spread (%)		
Undrawn Fee (%)		
Term Out (Years)		
Default Rate		
Max Rate		
Additional Terms and Fees		

**PRICING MATRIX FOR ALTERNATIVE BANK PRODUCT  
REQUEST FOR PROPOSALS  
Sites Project Authority  
Sites Reservoir Project**

Name of Bank: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Maximum Commitment Amount: \$\_\_\_\_\_ Million Principal Amount

<b>Expiration Date</b>	<b>Index (SIFMA or LIBOR)</b>	<b>Spread to Index (basis points)</b>	<b>Adjustment to Spread based on Rating Upgrade/Downgrade</b>	<b>Term Out Period</b>	<b>Redemption Provisions</b>	<b>Other Fees and Expenses (specify)</b>	<b>Term Out Rate and/or Default Rate</b>
2 Years							
3 Years							
4 Years							
5 Years							
Other term:							

Description of bank product:

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**JOINT EXERCISE OF POWERS AGREEMENT**

**SITES PROJECT AUTHORITY BOARD &  
RESERVOIR COMMITTEE MEMBERS**

**Authority Member Agencies:**

1. Colusa County
2. Colusa County Water District
3. Glenn-Colusa Irrigation District
4. Glenn County
5. Placer County Water Agency
6. Roseville, City of
7. Reclamation District 108
8. Sacramento Co Water Agency
9. Sacramento, City of
10. Tehama-Colusa Canal Authority
11. Westside Water District

**Non-Voting Members of the Authority:**

- Western Canal Water District (Associate Member)
- TC-4 Districts (Associate Member)
- Department of Water Resources (Ex Officio)
- US Bureau of Reclamation (Cost-share Partner)

**Reservoir Committee Members, Beyond the Sacramento Valley**

12. Antelope Valley-East Kern Water Agency
13. Coachella Valley Water District
14. Desert Water Agency
15. Metropolitan Water District
16. San Bernardino Valley Muni Water District
17. San Geronio Pass Water Agency
18. Santa Clara Valley Water District
19. Santa Clarita Valley Water District
20. Wheeler Ridge-Maricopa Water Storage District
21. Zone 7 Water Agency

**Reservoir Committee Members, Sacramento Valley**

1. American Canyon, City of
2. Carter Mutual Water Company
3. Colusa County (A)
4. Colusa County Water District (A)
5. Cortina Water District
6. Davis Water District
7. Dunnigan Water District
8. Glenn-Colusa Irrigation District (A)
9. LaGrande Water District
10. Reclamation District 108 (A)
11. Westside Water District (A)

“A” Denotes also an Authority Member

## PHASE 2 RESERVOIR COMMITTEE PARTICIPATION LEVELS

<b>Participant</b>	<b>Participation (Acre-Feet)</b>	<b>Percent</b>
Metropolitan Water District of SC	50,000	25.9%
San Bernardino Valley Municipal WD	21,400	11.1%
Santa Clara Valley WD	16,000	8.3%
Westside WD	15,000	7.8%
San Geronio Pass WA	14,000	7.3%
Colusa County WD	11,975	6.2%
Coachella Valley WD	10,000	5.2%
Colusa County	10,000	5.2%
Zone 7 WA	10,000	5.2%
Desert WA	6,500	3.4%
Glenn-Colusa ID	5,000	2.6%
Santa Clarita Valley WA	5,000	2.6%
City of American Canyon	4,000	2.1%
Reclamation District 108	4,000	2.1%
Wheeler Ridge - Maricopa WSD	3,050	1.6%
Dunnigan WD	2,717	1.4%
Davis WD	2,000	1.0%
La Grande WD	1,000	0.5%
Antelope Valley-East Kern WA	500	0.3%
Cortina WD	450	0.2%
Carter MWC	300	0.2%
<b>Total</b>	<b>192,892</b>	<b>100.0%</b>

NOTE: Any annualized amounts listed for Phase 2 are preliminary and are based on best estimates received after participants' respective review of the draft financing plan and draft Phase 2 Reservoir Project Agreement. These amounts do not represent the results of any action having been taken by the participants' respective governing body to formally execute the Phase 2 Reservoir Project Agreements. Final participation amounts will be established after interim financing terms and conditions have been provided and incorporated into the final Phase 2 Reservoir Project Agreement.

**FORM OF PHASE 2 PARTICIPATION AGREEMENT**

SITES PROJECT PHASE 2 DRAW SCHEDULE

Month	Monthly Draw Amount (\$)	Cumulative Draw (\$)
Jan-20		
Feb-20		
Mar-20		
Apr-20		
May-20		
Jun-20		
Jul-20		
Aug-20		
Sep-20		
Oct-20		
Nov-20		
Dec-20		
Jan-21		
Feb-21		
Mar-21		
Apr-21		
May-21		
Jun-21		
Jul-21		
Aug-21		
Sep-21		
Oct-21		
Nov-21		
Dec-21		
Jan-22		
Feb-22		
Mar-22		
Apr-22		
May-22		
Jun-22		



**Exhibit 6**

**SITES PROJECT PHASE 2 PROFORMA [To Come]**