

**BEFORE THE BOARD OF DIRECTORS OF THE
SITES PROJECT AUTHORITY**

RESOLUTION NO. 2022-__

In the Matter of:

**SITES PROJECT AUTHORITY RESOLUTION PROVIDING FOR THE PRIORITIZATION OF USE FOR
SITES PROJECT REVENUES**

WHEREAS, the Board of Directors of the Sites Project Authority (the “Board” and the “Sites Authority,” respectively), pursuant to the Sites Authority’s procedures and the California Government Code, from time to time, may adopt policy for the administration of the Sites Authority;

WHEREAS, the Sites Authority is developing a water supply and storage project commonly referred to as the “Sites Reservoir Project” and related facilities;

WHEREAS, the Sites Authority expects to receive certain revenues (as further defined below, the “Revenues”) from water supply and storage contractors, the California Department of Water Resources, the United States Bureau of Reclamation and others; and

WHEREAS, the Board, by adoption of this Master Resolution, desires to adopt guidance providing for the prioritization of use for such Revenues.

NOW, THEREFORE BE IT RESOLVED, by this Board of Directors:

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

Section 2. Definitions. Unless the context otherwise requires, the terms defined in this section shall for all purposes hereof and of any amendment hereof or supplement hereto and of any opinion or report or other document mentioned herein or therein have the meanings defined herein. Such definitions are equally applicable to both the singular and plural forms of any of the terms defined herein:

(a) **Authorized Officer.** “Authorized Officer” means (i) the Executive Director of the Sites Authority or, if there is no officer designated as the Executive Director, the Treasurer of the Sites Authority or (ii) the highest ranking member of the finance staff of the Sites Authority; and, in each case, the written designee thereof.

(b) **Benefits and Obligations Contracts.** “Benefits and Obligations Contracts” means water supply and water storage contracts entered into by the Sites Authority with agricultural,

municipal and/or industrial water providers with respect to the Project but shall not include any agreement or arrangement for water service or water storage with DWR or Reclamation.

(c) Board. “Board” means the Board of Directors of the Sites Authority.

(d) DWR. “DWR” means the California Department of Water Resources, including any successor thereto.

(e) Fiscal Year. “Fiscal Year” means the period beginning on January 1 of each year and ending on the last day of December of such year, or any other accounting period hereafter selected and designated by the Board as the Fiscal Year of the Sites Authority.

(f) Fixed Operation and Maintenance Costs. “Fixed Operation and Maintenance Costs” mean Operation and Maintenance Costs which do not vary by the amount of water diverted, stored or released from the Project, as more particularly determined in accordance with the Benefits and Obligations Contracts.

(g) Fixed Project Costs. “Fixed Project Costs” mean capital costs, including debt service on Project Obligations, reserves established for the payment of debt service on Project Obligations, other amounts due under the Project Obligations and other payments under the Benefits and Obligations Contracts other than payments constituting Fixed Operation and Maintenance Costs and Variable Operation and Maintenance Costs of the Project, as more particularly determined in accordance with the Benefits and Obligations Contracts.

(h) Joint Powers Agreement. “Joint Powers Agreement” means the Fourth Amended and Restated Joint Exercise of Powers Agreement, effective March 23, 2017, by and among the parties set forth on the execution page thereof, as amended and supplemented from time-to-time in accordance therewith.

(i) Liquidity Reserve. “Liquidity Reserve” means “Fund _____” maintained by the Sites Authority in accordance with Section 3.5 hereof.

(j) Liquidity Reserve Requirement. “Liquidity Reserve Requirement” means, for any Fiscal Year, an amount equal to (i) 10% of the debt service payable during such Fiscal Year with respect to all Project Obligations outstanding on the first day of such Fiscal Year, plus (ii) 10% of total Fixed Operation and Maintenance Costs payable during such Fiscal Year.

(k) Master Resolution. “Master Resolution” means this resolution as this resolution may be amended from time-to-time in accordance with Section 4.3 hereof.

(l) Net Revenues. “Net Revenues” means, for any Fiscal Year, Revenues minus Operation and Maintenance Costs.

(m) Operation and Maintenance Costs. “Operation and Maintenance Costs” means costs spent or incurred for operation and maintenance of the Project, calculated in accordance with Generally Accepted Accounting Principles; but excluding in all cases depreciation,

replacement and obsolescence charges or reserves therefor and amortization of intangibles, including amortization of water rights, unrealized losses on investments, write offs of the value of impaired assets and bookkeeping entries of similar nature as well as any other non-cash expenses.

(n) Project. “Project” means a water supply and storage project commonly referred to as the Sites Reservoir Project, the entire physical infrastructure and capital improvements to be designed, constructed, commissioned, and completed by the Sites Authority.

(o) Project Obligations. “Project Obligations” means any bonds, notes, loans or other evidences of indebtedness issued or incurred by or on behalf of the Sites Authority with respect to the Project.

(p) Reclamation. “Reclamation” means the United States of America, Department of the Interior, Bureau of Reclamation, including any successor thereto.

(q) Revenue Fund. “Revenue Fund” means the “Fund _____” maintained by the Sites Authority in accordance with Section 3.1 hereof, and including any other funds and accounts into which the Sites Authority deposits Revenues.

(r) Revenues. “Revenues” means, with respect to any Fiscal Year, all amounts received by the Sites Authority with respect to the Project, including but not limited to (i) (A) amounts received by the Sites Authority in connection with water supply and storage contracts with respect to the Project, including the Benefits and Obligations Contracts, (B) amounts received by the Sites Authority in connection with agreements or other arrangements entered into with DWR and Reclamation with respect to the Project, (C) other amounts received by the Sites Authority related to the operation of the Project, (D) transfers from the Liquidity Reserve as provided in Section 3.5 hereof and (E) other amounts received by the Sites Authority to the extent designated by the Board as “Revenues”, and (ii) all income from the investment of any Revenues in the (A) Revenue Fund, (B) Liquidity Reserve, and (C) any other fund or account created with respect to any Project Obligation to the extent investment earnings thereon are required by the terms of such Project Obligation to be transferred to the Revenue Fund or the Liquidity Reserve.

(s) Sites Authority. “Sites Authority” means the Sites Project Authority, an independent joint powers authority established pursuant to the Joint Exercise of Powers Agreement to exercise powers common to the Sites Authority members to, among other things, effectively study, promote, develop, design, finance, acquire, construct, manage, and operate Sites Reservoir Project and related facilities such as recreation and power generation.

(t) Variable Operation and Maintenance Costs. “Variable Operation and Maintenance Costs” means Operation and Maintenance Costs which vary by the amount of water diverted, stored or released from the Project, as more particularly determined in accordance with the Benefits and Obligations Contracts.

Section 3. Prioritization of Use for Revenues.

Section 3.1. Revenue Fund.

The Sites Authority hereby continues and agrees to maintain, so long as any Project Obligations remain unpaid, the Revenue Fund to be held by the Sites Authority. Amounts in the Revenue Fund shall be disbursed, allocated and applied solely to the uses and purposes hereinafter described in this Master Resolution, and shall be accounted for separately and apart from all other accounts, funds, money or other resources of the Sites Authority.

All Revenues and all amounts on deposit in the Revenue Fund are hereby allocated to the payment of the Operation and Maintenance Costs, Project Obligations and other costs as set forth in Section 3.2. The Revenues and all amounts on deposit in the Revenue Fund shall not be used for any other purpose while any Project Obligations remain unpaid. Any investment earnings on amounts on deposit in the Revenue Fund shall be retained in the Revenue Fund.

Section 3.2. Prioritization of Use for Revenues.

All Revenues received by the Sites Authority shall be deposited into the Revenue Fund established and held by the Sites Authority pursuant to Section 3.1 hereof and allocated in the following priority:

- a. to the payment of Operation and Maintenance Costs;
- b. to the payment of senior lien Project Obligations;
- c. to replenish bond reserve funds established for senior Project Obligations, if any;
- d. to the payment of subordinate lien Project Obligations;
- e. to replenish bond reserve funds established for subordinate lien Project Obligations, if any;
- f. to restore the amount on deposit in the Liquidity Reserve to the Liquidity Reserve Requirement; and
- g. as long as the Sites Authority determines there will be sufficient Revenues to make the payments set forth in (a) through (f) above, to pay any other Project costs, including Fixed Project Costs not previously paid under (b) through (e) above, permitted by law, under the Joint Powers Agreement and the Benefits and Obligations Contracts.

Section 3.3. Project Obligations. The Sites Authority shall not issue or incur any additional Project Obligations unless the Sites Authority has certified that (i) no material event of default has occurred under any Project Obligations and is continuing, (ii) each of the Benefits

and Obligations Contracts is in full force and effect, and (iii) such additional Project Obligation is entitled to the benefits this Master Resolution.

Section 3.4. Rate Sufficiency. (a) The Sites Authority hereby covenants to establish charges under the Benefits and Obligations Contracts at the beginning of each Fiscal Year which, together with Revenues billed and collected with respect to such Fiscal Year prior to the commencement of such Fiscal Year and with other Sites Authority Revenues, are reasonably expected to be at least sufficient to yield Net Revenues, together with amounts on deposit in the Liquidity Reserve, of at least 1.00 times Project Obligation debt service payable during such Fiscal Year.

(b) So long as the Sites Authority has complied with its obligations set forth in subsection (a) above, the failure of Net Revenues to meet the threshold in the prior subsection (a) with respect to a Fiscal Year shall not constitute a default or an event of default hereunder so long as the Authority has complied with its obligation set forth in clause (a) above with respect to the following Fiscal Year.

Section 3.5. Liquidity Reserve. The Sites Authority hereby covenants and agrees to maintain, so long as any Project Obligations remain outstanding, the Liquidity Reserve to be held by the Sites Authority. Amounts in the Liquidity Reserve shall be disbursed, allocated and applied solely to the uses and purposes hereinafter described in this Master Resolution, and shall be accounted for separately and apart from all other accounts, funds, money or other resources of the Sites Authority.

So long as any Project Obligations remain outstanding, the Sites Authority shall maintain in the Liquidity Reserve an amount equal to the Liquidity Reserve Requirement. On or prior to the date of incurrence of any Project Obligations, the Sites Authority shall deposit to the Liquidity Reserve an amount necessary, if any, to increase the amount on deposit in the Liquidity Reserve to the Liquidity Reserve Requirement, including in the calculation of the Liquidity Reserve Requirement any debt service payable during the then-current Fiscal Year with respect to such Project Obligations.

In the event of any deficiency in the Liquidity Reserve, the Sites Authority shall replenish such deficiency in accordance with Section 3.2 hereof.

Amounts in the Liquidity Reserve shall be withdrawn by the Sites Authority upon the written direction of an Authorized Officer solely for the purposes set forth in Sections 3.2(a), 3.2(e) and 3.2(g) hereof. Any amounts withdrawn from the Liquidity Reserve shall be deposited into the Revenue Fund and applied pursuant to Section 3.2 hereof. Any amounts in the Liquidity Reserve in excess of the Liquidity Reserve Requirement on the last day of any Fiscal Year may be transferred in accordance with the written direction of an Authorized Officer from the Liquidity Reserve to the Revenue Fund and applied pursuant to Section 3.2 hereof. Any investment earnings on amounts on deposit in the Liquidity Reserve shall be transferred on the last day of any Fiscal Year into the Revenue Fund and applied pursuant to Section 3.2 hereof.

unless such transfer would cause the amount on deposit in the Liquidity Reserve to be less than the Liquidity Reserve Requirement.

Section 3.6. Enforcement Provisions. The Sites Authority hereby covenants to enforce the Benefits and Obligations Contracts and other agreements pursuant to which the Sites Authority receives Revenues with other parties, including Reclamation and DWR, to the fullest extent necessary to assure sufficient Revenues will be available to pay all amounts with respect to Operation and Maintenance Costs and Project Obligations when due.

Section 3.7. Billing Provisions. The Sites Authority hereby covenants to bill (i) all amounts payable as Fixed Operation and Maintenance Costs under the Benefits and Obligations Contracts annually in advance in accordance with the Benefits and Obligations Contracts, (ii) all amounts payable as Variable Operation and Maintenance Costs semi-annually in advance in accordance with the Benefits and Obligations Contracts, (iii) all amounts due under Project Obligations annually in advance in accordance with the Benefits and Obligations Contracts, and (iv) all Fixed Project Costs, other than amounts due under Project Obligations, semi-annually in advance in accordance with the Benefits and Obligations Contracts.

Section 3.8. Investment. All amounts on deposit in the Revenue Fund and the Liquidity Reserve shall be invested in accordance with the Sites Authority investment policy as in effect from time-to-time.

Section 4. Miscellaneous.

Section 4.1. Benefits of this Master Resolution Limited to Certain Parties. Nothing contained herein, expressed or implied, is intended to give any person other than the Sites Authority or the parties to a Project Obligation any right, remedy or claim under or pursuant hereto, and any agreement or covenant required herein to be performed by or on behalf of the Sites Authority shall be for the sole and exclusive benefit of such other parties.

Section 4.2. Successor is Deemed Included in all References to Predecessor. Whenever the Sites Authority is named or referred to herein, such reference shall be deemed to include the successor to the powers, duties and functions that are presently vested in the Sites Authority, and all agreements and covenants required hereby to be performed by or on behalf of the Sites Authority shall bind and inure to the benefit of the successors thereof whether so expressed or not.

Section 4.3. Amendments. Except as may be otherwise provided in a Project Obligation, the Sites Authority may amend the provisions of this Master Resolution in accordance with the provisions of the Joint Powers Agreement and the bylaws of the Authority in effect from time-to-time.

Section 4.4. Partial Invalidity. If any one or more of the agreements or covenants or portions thereof required hereby to be performed by or on the part of the Sites Authority shall be contrary to law, then such agreement or agreements, such covenant or covenants or such

portions thereof shall be null and void and shall be deemed separable from the remaining agreements and covenants or portions thereof and shall in no way affect the validity hereof. The Sites Authority hereby declares that it would have adopted this Master Resolution, and each and every other article, section, paragraph, subdivision, sentence, clause and phrase hereof irrespective of the fact that any one or more articles, sections, paragraphs, subdivisions, sentences, clauses or phrases hereof or the application thereof to any person or circumstance may be held to be unconstitutional, unenforceable or invalid.

Section 4.5. Repeal of Inconsistent Resolutions. Any resolution of the Sites Authority and any part of any resolution inconsistent herewith is hereby repealed to the extent of such inconsistency.

Section 4.6. Additional Covenants. Nothing in this Master Resolution shall prohibit the Sites Authority from entering into additional covenants with or for the benefit of the owners of Project Obligations.

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Section 4.7. Effect. This Master Resolution shall take effect immediately.

PASSED, APPROVED AND ADOPTED by the Board of Directors of the Sites Project Authority this 21st day of November 2022 by the following vote:

AYES: Directors

NOES: Directors

ABSENT: Directors

ABSTAIN: Directors

I, Fritz Durst, Chair Authority Board of the Sites Project Authority, do hereby certify that the resolution set forth above is true and accurate copy of the resolution adopted by the Board of Directors of the Sites Project Authority at a duly called meeting of the Board on November 21, 2022 and that said resolution has not been rescinded, amended or modified and is in full force and effect as of the date hereof.

In Witness Whereof, I have executed this certificate this ___th day of _____ 2022.

Fritz Durst, Chair Authority Board, Sites Project Authority