



Meeting: **Reservoir Committee & Authority Board Agenda
Item 3.1**

April 18, 2025

Subject: **Update on Draft Benefits & Obligations (B&O) Contract and Financing Document Development**

Requested Action:

Receive and comment on the preliminary draft final project contract documents (dated April 2025) including the Benefits & Obligations Contract, updated Bylaws, and amended and restated Joint Powers Agreement. Receive a status report on payment methods from representative Board members.

Detailed Description/Background:

The Benefits & Obligations Contract (B&O Contract), Amended and Restated Joint Powers Agreement (JPA Agreement) and Phase 3, 4, and 5 Bylaws as a whole form the contract documents, including the governance structure for Phase 3, 4, and 5. The latest drafts of all three documents, including an updated Frequently Asked Questions (FAQ) document, were released in August 2024. At that time the Board directed Staff to continue to work through existing Committees/Workgroups to resolve the four items that remained unresolved. These items have been considered and resolved to the point where the Committees/Workgroups are presenting their recommendations in this April 2025 update of the contract documents (Attachments A-C) including:

1. **Project Governance:** The proposal to resolve the durability of the delegated authorities includes the following additions and changes:
 - Recognize the changed nature of the authorities of the Reservoir Committee elevating status from advisory to board level and rename to the Reservoir Management Board (RMB). All signatories to the B&O, with the exception of DWR as the Acquirer, are represented with a seat on the RMB and that agency's allotted voting weight (see Attachment D - table of current vote weights). See Section 3.8 of Bylaws.
 - Clarify that the RMB's delegated authorities are inclusive of all design, construction, operating and maintenance decisions on the Project, while making joint decisions with the Authority Board (AB) under specified material change circumstances. The Authority Board can only override an RMB decision under specified circumstances: either when the RMB decision violates law or the decision causes breach of a contract between the Authority and another party. See Section 3.5 of JPA and Section 3.8 of Bylaws.
 - Allow eligibility to all RMB members as Associate Members of the Authority Board with specified attributes of RMB Associate Members, including specific exclusion of RMB Associate Members from any vote

- of the Authority Board. This puts into contract the current practice of joint board meetings. See Section 3.4 of JPA and Section 7.4 of Bylaws.
- Specify that any proposed amendments to the contract documents to remove or change any authorities delegated to the RMB or add any new reserved powers of the AB potentially affecting the RMB's delegated powers, must achieve RMB approval and be subject to higher RMB voting thresholds than that which is specified for other decisions (either 75% of weighted vote or majority rules). The proposed higher threshold voting criteria are twofold: i) at least 15% weighted vote of the RMB in opposition of the proposed amendment(s) AND ii) 2 or more RMB members voting to block the proposed amendment(s). If both criteria are achieved in the RMB vote, the proposed amendment(s) would not go into effect. Any attempt by either board to change delegated authorities without the other board's approval would be invalid and constitute a breach of contract. See Section 8.2 of JPA and Sections 1.4 and 12.3.8 of Bylaws.
 - Incorporate the same higher RMB voting thresholds as amending delegated authorities to shared decisions related to financing/incurred debt and initiating/defending litigation. See Sections 12.3.9 and 12.3.15 of Bylaws.
2. **The "Default Waterfall":** Participants have expressed concerns about their exposure to a disproportionate share of obligations if one or more of the Participants default. To date there have been no clarifications or details provided to explain this concern and no specific suggested language changes have been provided to address this in the contract documents. Staff assumes this issue is closed unless otherwise advised by Participants.
3. **Treatment of Downstream Capacity:** There is apparent concern that the B&O Contract does not include adequate specificity of the initial allocation of Downstream Capacity and process for future adjustments as new participants join the Project or temporary uses occur. In addition, there is apparent interest in seeing the Sites Operations Plan establish planned operating parameters for use of Downstream Conveyance Capacity. This topic was discussed with the Operations and Engineering Workgroup in April 2025 and based on the discussion there appears to be an approach that will lead to closure of this issue. Proposed next steps are as follows:
- The existing B&O language aligns with the general direction received but will need to incorporate minor clarifications to describe the initial allocation of responsibility for cost of the Downstream Facilities and first priority to utilize those facilities and how those allocations will change over time as Participants buy and sell Base Capacity Interests. .
 - Present an updated version of the Sites Reservoir Operations Plan (version 2.1) as part of the May 2025 agenda packet.
4. **Conditions Precedent to Construction and "off-ramps":** Various uncertainties and risks that may occur (see Attachment E) after the execution of the B&O

were assessed. It is proposed that the following condition be added to the contract documents:

- Incorporate a condition that the vote of the RMB to authorize construction contracts under Section 3.2.1 of B&O Contract be applicable to any construction contract causing the total authorized construction expenditures (as defined in B&O) to be in excess of a cumulative total of \$500m would be subject to the same higher RMB voting thresholds as amending delegated authorities. See Section 10.2.3 of Bylaws.

This timing aligns with the Project's broader schedule for getting to investor commitment following the water right decision being issued, which is now expected in September 2025.

Before the investor commitment period (to be initiated following water right issuance) and prior to “escrow freeze”, the final draft of contract documents will be provided to Participants for a final check in October 2025. Changes to participation levels or requirements of new/modified contract document terms anytime following these April 2025 final drafts becomes increasingly difficult to navigate without delay and extra cost as the contents of these documents are heavily dependent on the mix of Participants and require agreement by all Participants.

The Participants are strongly encouraged to ensure their “within agency” reviews and Sites business case analyses are completed in a timely manner relative to the start of investor commitment. Working backwards from this point, a target of July 2025 appears appropriate for each Participant management staff to be confident in its Sites participation and that agency management staff are prepared to make its staff recommendation to its Board during the investor commitment escrow period. The multi-Participant decision-making process is cumbersome and must proceed in a coordinated, orderly fashion for a successful and efficient outcome. The six-month investor commitment period does not leave a lot of leeway for disruptions and the current Authority budget is projected to be fully expended around June 2026.

Prior Action:

December 2024 - Received an update on the development of the Benefits & Obligations Contract, Amended and Restated Joint Powers Agreement, and Phase 3, 4, 5 Bylaws.

Fiscal Impact/Funding Source:

The Amendment 3 Work Plan includes sufficient budget to cover required resources and activities to finalize the Sites Reservoir Benefits & Obligations Contract. The drafting of the Joint Powers Agreement and Bylaws was anticipated in General Counsel’s (Young Wooldridge) Amendment 3 scope with \$100,000 of

the contract authority being allocated which is still believed to be sufficient to cover finalizing these documents.

Staff Contact:

JP Robinette (B&O Contract)

Jerry Brown / Alan Doud (Joint Powers Agreement/Bylaws)

Primary Service Provider:

Nossaman / Brown & Caldwell (B&O Contract)

Young Wooldridge (Joint Powers Agreement / Bylaws)

Attachments:

Attachment A – Draft B&O Contract

Attachment B – Draft Joint Powers Agreement Amendment

Attachment C – Draft Bylaws Amendment

Attachment D – Voting Weights

Attachment E – Considerations

Attachment F – Updated FAQ to accompany April 2025 Draft.

DRAFT

[Note: This Draft of the Joint Powers Agreement is being provided as a draft, and the terms reflected in this draft remain subject to further revision and negotiation among the parties involved.]

FIFTH AMENDED AND RESTATED
SITES PROJECT AUTHORITY
JOINT EXERCISE OF POWERS AGREEMENT

This Joint Powers Agreement (“Agreement”) is made and entered into by and among Colusa County Water District (CCWD), County of Colusa (Colusa County), County of Glenn (Glenn County), Glenn-Colusa Irrigation District (GCID), Reclamation District 108 (RD 108), Tehama-Colusa Canal Authority (TCCA), Westside Water District (WWD), and Western Canal Water District (WCWD), jointly, Placer County Water Agency and City of Roseville (PCWA/Roseville), jointly, Sacramento County Water Agency and City of Sacramento, each referred to herein individually as an “Authority Member” or collectively as “Authority Members”.

RECITALS

The Authority Members are public entities located and operating in the Sacramento Valley, and are formed and operating under the laws of the State of California;

Congress and the State Legislature have declared that the Sacramento-San Joaquin Delta watershed and California’s water infrastructure are in crisis and they have encouraged regional and local public agencies to form joint powers authorities to improve the operation of the state’s water system;

Sites Reservoir has been identified by the State of California and the federal government as an important component of integrated water management in the Sacramento River watershed that could support the state’s co-equal policy to improve water management and restore the ecological health for beneficial uses of the Sacramento-San Joaquin Delta and the Sacramento River watershed;

The principal purpose of this Agreement is to establish an independent special agency, known as the Sites Project Authority (“Authority”), that will have as its mission, to be a proponent and facilitator to design, permit, acquire, construct, manage, govern, maintain and operate Sites Reservoir and related facilities (the “Project”);

Each Authority Member is uniquely authorized and situated with respect to the Project and the related facilities to help design, permit, acquire, construct, manage, govern, and operate the Project to provide local, regional, and statewide public benefits and improve the state’s water system;

Certain Authority Members executed the Memorandum of Understanding Between the Department of Water Resources, the United States Bureau of Reclamation, the Western Area

Power Administration, the California Department of Fish and Game, the United States Fish and Wildlife Service, the Glenn-Colusa Irrigation District, the Tehama-Colusa Canal Authority, and Other CalFed Agencies and Local Interests Pursuant to the Directive with Respect to Sites Reservoir Contained in the CalFed Bay-Delta program Programmatic Record of Decision, August 28, 2000;

In August 2010, Glenn-Colusa Irrigation District, Reclamation District 108, Tehama-Colusa Canal Authority, Maxwell Irrigation District, County of Glenn, County of Colusa, Yolo County Flood and Water Conservation District entered into an Agreement creating a public entity known as the Sites Project Authority.

In November of 2023, the Sites Project Authority approved for certification the Final EIR and associated Mitigation Monitoring and Reporting Program, which was jointly prepared with the Bureau of Reclamation's Final EIS which culminated in a Record of Decision being issued on XX;

The Authority expects to (i) obtain the Sites Water Right permit and critical state and federal permits covering the construction and operations of the Project, (ii) execute Benefits & Obligations Contracts with governmental entities related to their investment in the Project, and (iii) execute State and Federal Contracts with State and federal agencies for their participation in the Project;

Numerous changes in Authority membership have occurred since 2010, and the current membership of the Authority is reflected in the opening paragraph of this Agreement.

By this Fifth Amended and Restated Agreement, the Authority Members wish to establish the terms and conditions governing the Authority's functions during the final design, construction and operations phases of the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions hereinafter set forth, it is agreed by and among the Authority Members as follows:

I. DEFINITIONS

As used in this Agreement, the meaning of the terms used hereafter shall be as follows:

1.1. Agreement: This Joint Exercise of Powers Agreement as it currently exists or as it may be amended or revised from time to time.

1.2. Authority: The legal entity defined in this Agreement for the Sites Project Authority as organized by this Agreement.

1.3. Authority Member: An entity that meets the requirements of California Water Code § 79759 (a) or (b) and that is listed in the opening paragraph of this Agreement.

1.4. Benefits & Obligations Contract: The contract entered into by and between the Authority and each Project Participant governing each Project Participant's right to water service and Project water, storage capacity and conveyance capacity, and related rights, duties and obligations.

1.5. Board of Directors or Authority Board: The governing body of the Authority as established in Article IV of this Agreement.

1.6. Bylaws: Additional requirements to those contained in this Agreement related to the implementation of the Project; assigning delegations of authority, decision-making and dispute resolution; roles and responsibilities for Authority Board and Reservoir Management Board; membership types; and cost management.

1.7. Ex-Officio Member: The California Department of Water Resources ("DWR"), subject to the terms and conditions of Section 3.2 of this Agreement.

1.8. Project Participant: An agency, entity or company, that may or may not be an Authority Member and is entitled to a capacity interest in the Project as a signatory to the Benefits & Obligations Contract. In the case where DWR signs the Benefits & Obligations Contract on behalf of a Project Participant whose Project costs are included on that Project Participant's Statement of Charges, the Project Participant is considered the signatory for purposes of this Agreement and the Bylaws. The Bylaws and the Benefits & Obligations Contract provide for the rights, duties and obligations of the Project Participants.

1.9. Reservoir Management Board: The committee formed and existing pursuant to Section 3.5 of this Agreement, composed of representatives of Project Participants.

1.10. State and Federal Contracts: Contracts between the Authority and State and Federal agencies concerning Project funding, permitting, and operations, including, without limitation, the Proposition 1 Water Storage Investment Program Contract and the Reclamation Partnership Agreement, or each of them as the context requires, but excluding any agreement the Authority enters into with a federal agency pursuant to the Water Infrastructure Finance and Innovation Act (WIFIA).

II. PURPOSES AND POWERS

2.1 Creation: Pursuant to the Joint Exercise of Powers Act ("Act"), California Government Code Section 6500 et seq., and this Agreement, the Authority is duly formed and existing, and is a distinct public agency that is separate from its Authority Members.

2.2 Purpose: The purpose of this Agreement is to establish an independent JPA to exercise powers specifically identified herein that are common to the Authority Members to, among other

things, effectively study, promote, develop, permit, design, finance, acquire, construct, manage, and operate the Project. The purposes of pursuing and developing the Project are to: enhance water management flexibility in the Sacramento Valley, increase the reliability of water supplies in California, and provide storage and operational benefits to enhance water supply reliability and improve water quality and ecosystems.

2.3. Reserved Powers: Subject to the terms and conditions of this Agreement and the Bylaws, the Authority Board shall have sole responsibility for the following Project elements, referred to in this Agreement as the “Reserved Powers”:

- 2.3.1. Securing and maintaining the Project’s water rights permits and licenses from the State Water Resources Control Board, and ensuring that Project operations comply with the permits and licenses;
- 2.3.2. Securing and maintaining environmental approvals necessary and appropriate for the Project, including without limitation such approvals and certifications as are required by the California Environmental Quality Act and the National Environmental Protection Act, and ensuring that Project operations comply with such approvals and certifications;
- 2.3.3. Entering into and administering contracts with federal and state agencies necessary and appropriate for the Project, and ensuring that Project operations comply with such contracts.
- 2.3.4. Exercising the power of eminent domain to acquire such interests in real property as are necessary and appropriate for the Project, and holding title to such property interests;
- 2.3.5. Securing such funding as is necessary and appropriate for the Project from any federal, state or local public agency or program, including without limitation from Proposition 1 (California Water Code § 79750 *et seq.*) and WIFIA, and ensuring that Project design, construction, operations and maintenance comply with any applicable financial instruments secured by the Authority in accordance with the Benefits & Obligations Contract;
- 2.3.7. Retaining and managing all contracts for accounting and auditing services, and ensuring compliance with all accounting and auditing laws, rules and regulations applicable to the Authority and the Project.
- 2.3.8. Engaging in local community relations.
- 2.3.9. Approving the budget for the Project as the Reservoir Management Board develops and amends from time to time pursuant to the Bylaws, which approval shall not be withheld, conditioned, or delayed absent the Authority Board’s demonstration that the budget would either (1) be contrary to law, including rules provided for under

any Project permit or entitlement, or (2) violate any contract, including without limitation the Benefits & Obligations Contract, a State or Federal Contract, or any financing contract.

2.4. Exercise of Reserved Powers: Subject to the terms and conditions of this Agreement and the Bylaws, the Authority Board shall have the power to undertake the following in its exercise of the Reserved Powers, and in effectuating the Reservoir Management Board's Delegated Authorities as needed:

- 2.4.1. make and enter into contracts necessary for the full exercise of its Reserved Powers;
- 2.4.2. perform studies, environmental review, engineering and design, and if appropriate, permitting, construction of water storage, and related conjunctive management;
- 2.4.3. contract for the services of engineers, attorneys, scientists, planners, financial consultants, and separate and apart therefrom, to employ such persons as it deems necessary;
- 2.4.4. apply for, accept, and receive permits, licenses, grants, loans, or other funding from any federal, state or local public agency;
- 2.4.5. issue revenue bonds and other forms of indebtedness to the extent, and on the terms, provided by the Act;
- 2.4.6. incur debts, liabilities, and obligations;
- 2.4.7. adopt bylaws, rules, regulations, policies and procedures, governing the operation of the Authority and the Project; and
- 2.4.8. delegate levels of authority to the Reservoir Management Board and other advisory groups as the Authority Board deems appropriate and consistent with the requirements specified in the Bylaws.

2.5. Manner of Exercise of Powers: To the extent not specifically provided for in this Agreement or the Act, the Authority shall exercise its powers subject to the restrictions upon the manner of exercising the powers under the laws applicable to the Glenn-Colusa Irrigation District.

2.6. GCID, RD 108 and TCCA Operations: The Authority Members anticipate that the Project will be within or adjacent to GCID, RD 108, and/or TCCA districts with at least a portion of the conveyance of water into the Sites Reservoir to be accomplished by wheeling water through GCID's Main Canal, facilities that currently exist or that might in the future be constructed within the boundaries of RD 108, and/or the Tehama-Colusa Canal. The Authority shall not have the power, except with the express written consent of GCID, RD 108 and/or TCCA, depending on which facilities are at issue, to enter into any agreements or otherwise take any action that will, directly or indirectly, decrease, restrict, or in any manner alter, modify or limit water rights, water

supplies or contractual entitlements to water of GCID, RD 108 and/or TCCA (and, in the case of TCCA, the water agencies it serves) or the operations of their facilities or any facilities they operate under contract.

2.7. Maxwell Irrigation District (MID) Operations: The Authority Members anticipate that the Project could affect certain of MID's water rights downstream of Sites Reservoir. With respect to such of MID's rights, the Authority acknowledges and affirms its obligations to MID as identified in that certain *Memorandum of Understanding Regarding Maxwell Irrigation District Water Rights and Sites Reservoir*.

2.8. Counties' Powers: Nothing in this Agreement shall be construed as the surrender or relinquishment of the land use authorities as provided by law of the County of Colusa, the County of Glenn, or the County of Yolo.

III. AUTHORITY MEMBERSHIP

3.1. Generally: Authority Members comprise the public agencies (as defined in Section 6500 of the Act) that are authorized under the Act and Proposition 1 to be Authority Members and that are signatories to this Agreement.

3.2. DWR and Bureau of Reclamation: The Authority may enter into a State or Federal Contract, as applicable, with the California Department of Water Resources (DWR) and/or the Bureau of Reclamation (Reclamation) to carry out the purposes of this Agreement. Pursuant to Water Code section 79759(b), DWR shall be an Ex-Officio Member of the Authority, but shall be non-voting and "shall not control the governance, management, or operation" of the Project. DWR shall not be a Project Participant.

3.3. Addition of Members: Entities authorized by law to participate in a JPA located within the Sacramento River watershed may subsequently become Authority Members upon an affirmative vote of at least seventy-five percent (75%) of the total number of the governing boards of the Authority Members and the new Authority Member's execution of this Agreement, as it may have been amended. An entity requesting to become an Authority Member shall provide certification of compliance with the membership requirements of this Agreement and the Bylaws. The entity requesting to become an Authority Member may represent a group of other entities. Terms and conditions for new Authority Member's participation in the Authority, if any, shall be set forth in an amendment to this Agreement or in the Bylaws. Such terms and conditions shall be consistent with this Agreement and any contracts, resolutions, or indentures of the Authority then in effect.

3.4. Associate Member: Either (1) a public agency that has as its sole or a principal power the supplying of water (and/or power) to other entities or to retail water (and/or power) users that also meets the joint powers authority membership requirements of California Water Code § 79759 (a) & (b), but elects to accept an advisory role from the Authority, (2) a non-profit mutual water company that complies with the non- profit JPA membership requirements of California Water Code § 79759 (b), but elects to accept an advisory role from the Authority, or (3) a Project

Participant that opts to serve on the Authority Board as a non-voting member, all as further subject to Section 7.4 of the Bylaws.

3.5. Reservoir Management Board: There is hereby formed a Reservoir Management Board composed of representatives of Project Participants. The Reservoir Management Board functions to exercise the “Delegated Authorities”, which are all such powers to design, construct, operate and maintain the Project, and which are not Reserved Powers defined in Section 2.3, and which are more particularly described in Section 10 of the Bylaws. The charter for the Reservoir Management Board, including conditions of membership and the manner in which it conducts itself, is set forth in the Bylaws.

IV. GOVERNANCE AND INTERNAL ORGANIZATION

4.1. Board of Directors: The governing body of the Authority shall be the Board of Directors (Authority Board) that will conduct all business on behalf of the Authority consistent with this Agreement, the Bylaws and applicable law. The Authority Board will consist of one representative of each Authority Member. To remain in an active status, each Authority Member having representation on the Authority Board shall be in good standing as defined in the Bylaws.

4.2. Appointment: Each Authority Member shall appoint a Director to the Authority Board. Each Authority Member shall also be entitled to appoint an Alternate Director to the Authority Board. The role of the Alternate Director shall be to assume the duties of an Authority Member’s Director in case of the absence or unavailability of such Director.

Should a Director who is an officer of the Authority Board not be in attendance, the Authority Member’s Alternate Director shall not assume the duties of the officer. Should the Chair be absent, the Vice-Chair shall assume the Chair’s responsibilities until the Chair is present, and if both are absent the Authority Board may appoint a temporary Chair.

Directors and Alternates both serve at the pleasure of the governing body of their respective Authority Member. Authority Members shall communicate their Director and Alternate selections, and any changes thereto, to the Authority in writing. Each Authority Member is entitled to one vote, either by its Director or the Alternate, at a meeting of the Authority Board.

4.3. Meetings: The Authority Board shall hold at least one regular meeting per year, and may hold regular or special meetings at more frequent intervals. All meetings of the Authority Board shall be called, held, noticed, and conducted subject to the provisions of the Ralph M. Brown Act (Government Code section 54950 *et seq.*) and the Bylaws.

4.4. Quorum: A majority of the total number of Directors shall constitute a quorum.

4.5. Voting:

- 4.5.1. Material Change and Shared Decision Items are those matters specifically identified as such in the Bylaws and require (i) a seventy-five percent (75%) vote of the total number of Directors and (ii) at least seventy-five (75%) of the of the Reservoir Management Board weighted vote, unless otherwise specified in the Bylaws.
- 4.5.2. Routine Matters or Non-Material Change and Shared Decisions Items Before the Authority: The Authority Board shall take action only upon an affirmative vote of a majority of the total number of Directors.
- 4.5.3. Material Change Items Before the Authority: Regarding a Material Change before the Authority Board only, the Authority Board shall take action only upon an affirmative vote of a at least seventy-five percent (75%) of the total number of Directors. Such changes are expressly provided for in this Agreement, and include, without limitation, those identified in Sections 3.3, 7.3, and 8.1.

4.6. Officers:

- 4.6.1. The Authority Board shall select from among the Directors a Chair, who will be the presiding officer for all Authority Board meetings, and a Vice-Chair, who will preside in the absence of the Chair.
- 4.6.2. The Authority Board shall select a Treasurer, who need not be a Director and who shall be the depository and have custody of all money of the Authority and shall perform the duties specified in Government Code section 6505.5. The Treasurer shall be bonded in accordance with Government Code section 6505.1 and shall pay all demands against the Authority that have been approved by the Authority Board.
- 4.6.3. The Authority Board shall select a Secretary, who need not be a Director and who shall be responsible for keeping the minutes of all meetings of the Authority Board and all other official records of the Authority. The Authority Board may combine the positions of Secretary and Treasurer.
- 4.6.4. The Bylaws may further address the duties, responsibilities and administrative requirements for the officers.

4.7. [Reserved]

4.8. Liability of Authority, Officers, and Employees: The Directors, officers, and any employees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. No Director, officer, employee or agent will be responsible under this Agreement for any act or omission by another Authority Member, Authority Board officer, or Authority contractor or employee. The Authority shall indemnify and hold harmless the Authority Members, Authority Board officers, and Authority employees or consultants, for any action taken lawfully and in good faith pursuant to

this Agreement. Nothing in this section shall be construed to limit the defenses available under the law, to the Authority Members, the Authority, or its Directors, officers, employees or agents.

V. FINANCIAL PROVISIONS

5.1. The terms and conditions of this Article V pertain only to those funds that are generated solely by Authority Members for the administration of the Authority.

5.2. Fiscal Year: The fiscal year shall run concurrent with the calendar year, unless the Authority Board decides otherwise.

5.3. Depository: All funds of the Authority shall be held in separate accounts in the name of the Authority and not commingled with the funds of any Authority Member, Project Participant, the Reservoir Management Board, or any other person or entity. Regular reports shall be made as directed by the Authority Board, but at least quarterly, to the Authority Board of all receipts and disbursements. The books and records shall be open to inspection by the Authority Board, individual Directors, and Project Participants upon reasonable notice.

5.3. Budgets of the Authority Board: A draft Authority Board budget will be prepared for the Authority Members to review at least 45 days before the beginning of the Authority's next fiscal year. The Authority Board shall approve the budget no later than 15 days before the beginning of the fiscal year. The budget shall include: Project-specific costs, as distinct from general and administrative costs of the Authority, shall be fully described and specified in the Benefits & Obligations Contract or applicable State or Federal Contracts. Consistent with Section 5.1 above, the Authority Board shall ensure that all costs incurred by the Authority directly relating to the Project, if any, will be paid only by the Project Participants in the manner provided for in the Benefits & Obligations Contract or any State or Federal Contract, and will not be paid for by the Authority as general and administrative costs. The Bylaws may include additional requirements and criteria for such costs.

5.4. Recovery of General and Administrative Costs:

5.4.1. The Authority Board may assess each Authority Member for the general and administrative costs to operate the Authority. Payments of public funds may be made to defray the costs incurred in carrying out such purposes, and advances of funds may be made for use in doing so, to be repaid as provided in this Agreement. Personnel, equipment or property of one or more of the Authority Members may be used in lieu of other contributions or advances, upon Authority Board approval, and will be treated as a contribution from that Authority Member.

5.4.2. General and administrative costs incurred by the Authority in carrying out its purposes, as described in Section 5.3, shall be shared by the Authority Members as determined by the Authority Board.

5.4.3. The Authority shall periodically, as necessary, issue an invoice to each Authority Member reflecting the expenses attributable to that Authority Member in accordance with this Agreement.

5.4.4. Upon request of any Authority Member, the Authority shall produce and allow the inspection of all documents relating to the computation of expenses attributable to the Authority Members under this Agreement. If an Authority Member does not agree with the amount listed on the invoice, it must make full payment and provide a cover letter accompanying payment to the Authority specifying the amount in dispute and providing a detailed explanation of the basis for the dispute. The Authority shall advise the disputing Authority Member of the Authority's determination within 30 business days.

5.5. Recovery of Project Operations Costs: The Benefits & Obligations Contract and applicable State and Federal Contracts shall specify the requirements for recovery of costs related to Project operations..

5.6. Auditor: An auditor shall be chosen annually by, and serve at the pleasure of, the Authority Board. The auditor shall make an annual audit of the accounts and records of the Authority. A report shall be filed as a public record with the Auditor of the County where the Authority is domiciled, consistent with Section 6505 of the Act, and with each agency that is an Authority Member or a Project Participant. Such report shall also be filed with the California Secretary of State or State Controller within twelve months of the end of the fiscal year.

5.7. Bonds: The Authority Board may, from time to time, designate the officers or other persons who have charge of, handle, or have access to any property of the Authority and shall require such officers or persons to file an official bond in an amount to be fixed by the Authority Board.

5.8. Authority Members' Limited Liability: As provided by Government Code Section 6508.1, the debts, liabilities, and obligations of the Authority shall be the debts, liabilities, and obligations of the Authority only, and not of the constituent Authority Members.

VI. BENEFITS & OBLIGATIONS CONTRACT

6.1. General: The Authority intends to carry out the purposes of this Agreement in a manner consistent with the joint exercise of powers described herein. Funding and participation in the Project shall be governed by the Benefits & Obligations Contract or applicable State or Federal Contract. Additionally, the Authority may enter into agreements with the State of California, the United States, or any other public or private entity, subject to the approval of the Reservoir Management Board to the extent required by the Bylaws.

6.2. Parties to the Benefits & Obligations Contract: In connection with the Project, the Authority Members and Project Participants electing to participate in the Project shall enter into

the Benefits & Obligations Contract with the Authority. No Authority Member shall be required to enter into the Benefits & Obligations Contract.

6.3. Financial Obligations Under the Benefits & Obligations Contract: Unless otherwise provided for in this Agreement or the Bylaws, all assets, rights, benefits, and obligations attributable to the Project shall be assets, rights, benefits, and obligations of Project Participants. Any debts, liabilities, obligations or indebtedness incurred by the Authority in regard to the Project shall be the debts, liabilities, obligations, and indebtedness of Project Participants and shall not be the debts, liabilities, obligations or indebtedness of the Authority Members that have not executed the Benefits & Obligations Contract, and that are payable under the Benefits & Obligations Contract. The Benefits & Obligations Contract may include signatories that are not Authority Members. The Bylaws may provide additional requirements regarding the implementation of the Project.

VII. TERMINATION, WITHDRAWAL, SUSPENSION, AND DISPUTE RESOLUTION

7.1. Termination:

- 7.1.1. Mutual Termination. This Agreement may be terminated by the mutual agreement of at least seventy-five percent (75%) of the total number of the governing boards of the Authority Members in writing, provided that in recognition of the requirements of Proposition 1 and the reliance on the Authority by the signatories to the Benefits & Obligations Contract, termination of this Agreement shall not be effective prior to the assignment of all rights, duties and obligations to a separate joint powers authority formed and existing in a manner consistent with the requirements of Proposition 1 for the purposes of owning the Project and exercising the Reserved Powers. The manner of formation of a joint powers authority is a Material Change and Shared Decision subject to the approval of both the Authority Board and the Reservoir Management Board, as provided in Section 12.3.11 of the Bylaws.
- 7.1.2. Project Termination. In the event the termination of this Agreement becomes necessary or appropriate as a result of the cessation of the Project for reasons beyond the control of the Authority, including a decision by the Authority Board and Reservoir Management Board pursuant to Section 12.3.10 of the Bylaws, then the Authority shall continue to exist for purposes of facilitating by the Project Participants (i) the disposal of all claims, (ii) payment of debt service, (iii) reimbursement owed to financial institutions or other parties advancing funds to the Authority for the Project, (iv) satisfaction of other covenants contained in reimbursement agreements with such institutions and parties, and (v) distribution of assets and all other functions necessary to conclude the affairs of this Authority, as provided for in the Benefits & Obligations Contract.

7.1.3. Removal of an Authority Member by the Authority. Any Authority Member may be removed from the Authority upon the affirmative vote of all Directors except the vote of the Director appointed by the Authority Member then considered for termination. Prior to any vote to remove an Authority Member, written notice of the proposed removal and the reason(s) for such removal shall be presented at a regular Authority Board meeting with opportunity for discussion. The Authority Member subject to possible removal shall have the opportunity at the next regular Authority Board meeting to respond to any reasons and allegations that may be cited as a basis for removal prior to a vote. If an Authority Member is removed, that Authority Member will be responsible for its share of any costs incurred by the Authority up to the date of removal. Nothing in this Section 7.1.3 shall affect membership on the Reservoir Management Board as to a removed Authority Member that has signed the Benefits & Obligations Contract.

7.2. Authority Member Withdrawal from Authority: Any Authority Member may withdraw from the Authority by giving at least 30 days written notice of its election to do so, which notice shall be given to the Authority and each Authority Member to this Agreement; provided that such withdrawal does not in any way impair any contracts or obligations of the Authority then in effect, including, without limitation, the Benefits & Obligations Contract and the State and Federal Contracts. Prior to withdrawal or as soon as an accounting can be completed, the withdrawing Authority Member shall pay its share of general and administrative costs described in Section 5.5; provided, however, the withdrawing Authority Member shall only be liable for expenses incurred under this Agreement through the date of withdrawal. The withdrawing Authority Member shall also be responsible for its share of any claims, demands, damages, or liability arising from this Agreement through the date of withdrawal. As to any Authority Member that is a signatory to the Benefits & Obligations Contract, no withdrawal undertaken pursuant to this Section 7.2 shall affect the withdrawing Authority Member's rights, duties and obligations under the Benefits and Obligations Contract, or the withdrawing Authority Member's membership in the Reservoir Management Board.

7.3. Membership Suspension: Should any Authority Member be deemed by the Authority Board to not be in Good Standing as defined in the Bylaws, an affirmative vote of at least seventy-five percent (75%) of the total number of Directors can suspend the Authority Member's voting rights. Once the Authority Member is deemed by the Authority Board to meet the requirements for being in Good Standing, the Authority Member can petition the Authority Board to have its voting privileges and, if applicable, any Authority Board officer status restored by an affirmative vote of the Authority Board consisting of at least seventy-five percent (75%) of the total number of Directors. During the time the Authority Member has not been in Good Standing, the Authority Member shall remain obligated to comply with all other requirements of this Agreement, the Bylaws and the Benefits & Obligations Contract.

7.4. Disposition of Assets Upon Termination: Upon termination of this Agreement, any surplus money or assets in the possession of the Authority for use under this Agreement, after payment of liabilities, costs, expenses and charges incurred under this Agreement, shall be returned to the then-existing Authority Members in proportion to the contributions made by each. All other

property, works, rights and interests of the Authority shall be assigned to the joint powers authority formed to replace the Sites Project Authority referenced in Section 7.1.1.

7.5. Dispute Resolution. If a dispute arises among any of the Authority Members relating to or arising from an Authority Member's rights, duties, obligations or performance under this Agreement, then the Authority Members that are parties to the dispute will first attempt to resolve their dispute informally, in a timely and cost-effective manner by appointing a knowledgeable, responsible representative to hold meetings and negotiate with the other Authority Members' representatives to resolve any such dispute. If the chosen representatives fail to resolve the dispute, the presiding officer of each board of the Authority Members that are parties to the dispute shall meet together to negotiate to resolve the dispute.

If the Authority Members that are parties to the dispute are unable to resolve the dispute through informal dispute resolution within thirty (30) days, an Authority Member may submit the dispute to formal mediation. The parties to the dispute shall voluntarily agree to the choice of mediator, or, if the parties cannot agree upon a mediator, one shall be appointed by the Superior Court of Colusa County upon motion for appointment of a neutral mediator. The cost of mediation shall be paid in equal proportion among the Authority Members involved in the dispute.

Each involved Authority Member reserves any and all rights and remedies available to it under the Agreement or at law or in equity or otherwise if a dispute is not resolved in the manner provided for above.

In the event of any dispute that is unresolved pursuant to this Agreement, the Authority Member or Members prevailing in such dispute shall be entitled to collect from the other Authority Member or Members that are parties to the dispute all costs incurred in such dispute, including reasonable attorneys' fees.

VIII. MISCELLANEOUS PROVISIONS

8.1. Amendment of Agreement: This Agreement may be amended only by an affirmative vote of at least seventy-five percent (75%) of the governing boards of the Authority Members; provided, however, (i) this Agreement may not be amended to terminate the participation of an Authority Member without the affirmative vote of all governing boards of the Authority Members except the vote of the Director appointed by the Authority Member then considered for termination, (ii) no amendment to this Agreement shall be made that would interfere with the rights of any signatory to the Benefits & Obligations Contract, and (iii) no amendment to this Agreement shall be made that would divest the Reservoir Management Board or any Project Participant of any authority they have under the Bylaws. The Authority shall provide notice to all Authority Members and members of the Reservoir Management Board of amendments to this Agreement, including the effective date of such amendments. To provide non-concurring Authority Members an opportunity to withdraw from the Authority, any amendment to this Agreement shall be binding on all Authority Members thirty (30) days after the required concurrence has been obtained.

8.2. Adoption and Amendment of Bylaws: By operation of the Authority Members' execution of this Agreement, the Authority Board hereby irrevocably adopts the Bylaws. The Bylaws may only be amended in the manner set forth in the Bylaws, which provide that such amendment constitutes a Material Change and Shared Decision Item requiring (i) an affirmative vote of at least seventy-five percent (75%) of the total number of Directors and (ii) that if the vote against the amendments includes two (2) or more Reservoir Management Board representatives and the disapproving Reservoir Management Board representatives combined represent more than fifteen percent (15%) of the Reservoir Management Board's weighted vote, the amendments shall not be approved. The Authority shall provide written notice to all Authority Members of amendments to the Bylaws, which includes the effective date of such amendments.

8.3. Assignment: Except as otherwise expressed in this Agreement or the Bylaws, the rights and duties of the Authority Members may not be assigned or delegated without the advance written consent of all the other Authority Members and, if provided for in the Bylaws, the Reservoir Management Board, and any attempt to assign or delegate such rights or duties in contravention of this section shall be null and void. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Authority Members. This section does not prohibit an Authority Member from entering into an independent agreement with another agency, person or entity regarding the funding or financing of that Authority Member's contributions to the Authority, or the disposition of the proceeds which that Authority Member receives under this Agreement, so long as the independent agreement does not affect or purport to affect the rights and duties of the Authority or the Authority Members under this Agreement.

8.4. Severability: If one or more clauses, sentences, paragraphs or provisions of this Agreement shall be held to be unlawful, invalid or unenforceable, it is hereby agreed by the Authority Members that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provisions shall be deemed reformed so as to be lawful, valid, and enforced to the maximum extent possible.

8.5. Execution by Counterparts: This Agreement may be executed in any number of counterparts and upon execution by all Authority Members, each executed counterpart shall have the same force and effect as an original instrument and as if all Authority Members had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but have attached to it one or more signature pages.

8.6. Authority Members to be Served Notice: Any notice authorized to be given pursuant to this Agreement shall be validly given if served in writing either personally, by facsimile, by electronic mail (e-mail), by deposit in the United States mail, first-class postage prepaid with return receipt requested, or by a recognized courier service. Notices given (i) personally or by courier service shall be conclusively deemed received at the time of delivery and receipt, and (ii) by mail shall be conclusively deemed given 48 hours after the deposit thereof if the sender returns the receipt. All notices shall be sent to the addresses listed in Exhibit A to this Agreement.

8.7. Filing of Agreement: Pursuant to section 6503.5 of the Act, the Authority shall file or cause to be filed a certified copy of this Agreement with the Secretary of State within 30 (thirty) days following the last signature below.

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

COLUSA COUNTY WATER DISTRICT

Dated: _____
(Effective mmm dd, yyyy)

By: _____

COUNTY OF COLUSA

Dated: _____
(Effective mmm dd, yyyy)

By: _____

COUNTY OF GLENN

Dated: _____
(Effective mmm dd, yyyy)

By: _____

GLENN-COLUSA IRRIGATION DISTRICT

Dated: _____
(Effective mmm dd, yyyy)

By: _____

PLACER COUNTY WATER AGENCY & CITY OF ROSEVILLE, Jointly

Dated: _____

(Effective mmm dd, yyyy)

By: _____

Dated: _____

(Effective mmm dd, yyyy)

By: _____

RECLAMATION DISTRICT 108

Dated: _____

(Effective mmm dd, yyyy)

By: _____

CITY OF SACRAMENTO & SACRAMENTO COUNTY WATER AGENCY, Jointly

Dated: _____

(Effective mmm dd, yyyy)

By: _____

Dated: _____

(Effective mmm dd, yyyy)

By: _____

TEHAMA-COLUSA CANAL AUTHORITY

Dated: _____

(Effective mmm dd, yyyy)

By: _____

WESTERN CANAL WATER DISTRICT

Dated: _____
(Effective mmm dd, yyyy)

By: _____

WESTSIDE WATER DISTRICT

Dated: _____
(Effective mmm dd, yyyy)

By: _____

DRAFT

Exhibit A to the Sites Project Authority Joint Exercise of Powers Agreement:

Effective Date: _____

Colusa County Water District
General Manager
P.O. Box 337
Arbuckle, CA 95912

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

County of Colusa
Chair of the Board of Supervisors
547 Market Street, Suite 108
Colusa, CA 95932

Sacramento County Water Agency
700 H Street, Suite 7650
Sacramento, CA 95814
& City of Sacramento
915 I Street
Sacramento, CA 95814

County of Glenn
Chair of the Board of Supervisors
525 West Sycamore Street
Willows, CA 95988

Tehama-Colusa Canal Authority
General Manager
P.O. Box 1025
Willows, CA 95988

Glenn-Colusa Irrigation District
General Manager
P.O. Box 150
Willows, CA 95988

Western Canal Water District
General Manager
PO Box 190
Richvale, CA 95974

Placer County Water Agency
PO Box 6570
Auburn CA 95604
& City of Roseville
2005 Hilltop Circle
Roseville, CA 95747

Westside Water District
General Manager
5005 CA-20
Williams, CA 95987

**THIRD AMENDED AND RESTATED
BYLAWS OF THE
SITES PROJECT AUTHORITY
FOR PHASES 3, 4 and 5 OF THE SITES RESERVOIR
PROJECT**

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[Note: This Draft of the Phase 3-4-5 Bylaws is being provided as a draft, and the terms reflected in this draft remain subject to further revision and negotiation among the parties involved.]

1 Relationship: Agreement and Bylaws

- 1.1. Agreement: The Sites Project Authority Joint Powers Agreement (Agreement) is the chartering document that defines, among other things:
 - The Authority's members and general limitations on membership in the Authority;
 - The Authority's powers relative to the Sites Reservoir Project (the "Project"), as further defined in these Bylaws, the Joint Exercise of Powers Act (Cal. Gov. Code §§ 6500 *et seq.*) and the California Irrigation District Law (Cal. Water Code §§ 20500 *et seq.*);
 - The Authority's purpose, which is specific to the Project;
 - The Authority Board's officers;
 - Minimum meeting and voting requirements;
 - The adoption and amendment of these Bylaws.
- 1.2. Bylaws: These Bylaws are adopted pursuant to the Agreement and consistent with the Benefits & Obligations Contract, which collectively constitute the contract provisions for the sharing of the governance of the Sites Project between the Authority and Reservoir Management Board, provide for the delegation of authority to the Reservoir Management Board (defined below), and provide procedures for administration of the Authority.
- 1.3. Severability: If one or more clauses, sentences, paragraphs or provisions of these Bylaws are held to be unlawful, invalid or unenforceable, the remainder of these Bylaws shall not be affected thereby. Such clauses, sentences, paragraphs or provisions shall be reformed in the manner provided for in Section 14 below so as to be lawful, valid, and enforced to the maximum extent possible.
- 1.4. Amendments of Bylaws: The Bylaws may only be amended as provided at Section 8.2 of the Agreement and Section 12.3.8.

2 [Reserved]

3 Definitions

- 3.1. Authority Board: The governing body of the Authority, composed of each Authority Member's delegate (or its respective alternate if the delegate is not present).
- 3.2. Benefits & Obligations Contract: The contract entered into by and between the Authority and each Project Participant governing each Project Participant's share of the Project's water, storage capacity and conveyance capacity, and related rights, duties and obligations.
- 3.3. Event of Default: Described in Section 10 of the Benefits & Obligations Contract.
- 3.4. Material Change: Any change to the Project, including without limitation its governing documents, operations, permits and entitlements, as identified in the Agreement or in Section 12 below.
- 3.5. Authority Member: An entity that meets the requirements of California Water Code § 79759 (a) or (b) and that is listed in the opening paragraph of the Agreement.

- 3.6. Partner Agreements: Any agreement entered into between the Authority and another entity in accordance with which the Authority has the right to convey Project water to or from the Project, as amended from time to time.
- 3.6. Phase: Implementation of the Project is entering its final design, construction and operations phases, sometimes referred to as Phases 3, 4, and 5.

For the Authority to accomplish its mission in an efficient and cost-effective manner, the start of a successor phase may overlap with the completion of the predecessor phase. As provided in these Bylaws, such overlap shall require Reservoir Management Board approval, as it affects annual operating budgets and the respective Project Participant's financial obligations under the Benefits & Obligations Contract.

- 3.7. Project Participant: An agency, entity or company, that may or may not be an Authority Member, and participates in the Project as a signatory to the Benefits & Obligations Contract. In the case where the California Department of Water Resources (DWR) signs the Benefits & Obligations Contract on behalf of a Project Participant whose Project costs are included on that Project Participant's Statement of Charges, the Project Participant, and not DWR, is considered the signatory for purpose of the Agreement and these Bylaws. These Bylaws and the Benefits & Obligations Contract provide for the rights, duties and obligations of the Project Participants.
- 3.8. Reservoir Management Board: A committee of the Authority Board composed of representatives of Project Participants. The Reservoir Management Board functions to exercise the "Delegated Authorities" more specifically identified in Section 10 of these Bylaws, which are all such powers to design, construct, operate and maintain the Project, and which are not Reserved Powers defined in the Agreement. These Bylaws constitute the charter for the Reservoir Management Board, including the manner in which it conducts itself and the conditions of membership.
- 3.9. State and Federal Contracts: Contracts between the Authority and State and Federal agencies concerning Project funding, permitting, and operations, including, without limitation, the Proposition 1 Water Storage Investment Program Contract and the Reclamation Partnership Agreement, or each of them as the context requires, but excluding any agreement the Authority enters into with a federal agency pursuant to the Water Infrastructure Finance and Innovation Act (WIFIA).
- 4.0. Water Right: The water right obtained and owned by the Authority for the Project.

4 Board of Directors and Officers

In addition to the primary requirements applicable to the Authority Board defined in the Agreement, the following additional requirements shall apply:

- 4.1. Role of Authority Board: To act as the Project owner and exercise the Reserved Powers (as defined in the Agreement) in a manner consistent with the Agreement and these Bylaws.
- 4.2. Minimum Qualifications: Each Director shall be a designated representative from his or her respective Authority Member that is in good standing as defined at Section 8.1. Absentee votes shall not be considered. An Authority Member's designated alternate is not eligible to be candidate for an Officer position. If an Officer is the designated representative of an Authority Member that is not in good standing and that Authority Member's voting rights have been suspended as provided at Section 7.3 of the Agreement, then that Officer shall no longer be eligible to serve as an officer of the

Authority Board and the Authority Board shall make an appointment for the remaining duration of that office.

4.3. Officer Term Limits: Board officers shall serve a term that does not exceed one year in duration. A Board officer is not precluded from holding consecutive terms.

4.4 Election of Officers: The Authority Board shall annually elect the Chair and one or more Vice Chairs from among the Directors. The Board shall annually appoint a Secretary and Treasurer and may appoint any other officers or assistant officers as the Board may determine, which officers need not be Directors. Elections shall occur annually, at the regularly scheduled Board meeting in February, or if for any reason the election does not occur, then at the next meeting of the Authority. For each position, the candidate receiving the majority vote from the Authority Members present shall be the successful candidate. Officers shall assume office upon their election and shall serve until their successor is elected.

4.5 Officer Vacancy: Should an officer position become vacant, the Board shall make an appointment for the remaining duration of the vacated position's term.

4.6. Treasurer's Roles and Responsibilities:
The Treasurer shall meet or exceed the requirements of Government Code Section 6505.5 and the Authority shall secure a bond for the position.

The Treasurer shall ensure auditor's reports are filed as required by law, manage the annual budget preparation in accordance with Authority Board and Reservoir Management Board's direction and the Authority Board's and Reservoir Management Board's approval of the budget, and take such other actions or assume such duties as the Authority Board and Reservoir Management Board may reasonably assign from time to time.

4.7. Secretary's Roles and Responsibilities:
Ensure Authority Board and Reservoir Management Board agendas, minutes, and meeting protocol, and preparation of agendas and minutes as may be delegated by the Board to a Board Clerk are prepared in accordance with public agency standard practice.

4.8. Location: The Sites Project Authority's principal place of business and office and mailing addresses are:

Physical Address:
122 Old Highway 99 West
Maxwell, CA 95955

Mailing Address:
P.O. Box 517
Maxwell, CA 95955

4.9 Meeting Locations/Teleconference meetings:

a. Most meetings of the Authority Board and Reservoir Management Board will be jointly held at the principal office in Maxwell; however, because the Authority Board and Reservoir Management Board have members throughout the State, and in accordance with Water Code section 79759(b) includes the Department of Water Resources (DWR) as an Ex Officio Member of the Authority, some meetings of the Authority Board or Reservoir Management Board may be held elsewhere in the State.

b. Meetings of the Authority Board or Reservoir Management Board shall comply with the provisions of the Brown Act governing conduct and location of meetings. For

purposes of providing video or teleconferencing access for meetings of the Authority Board or the Reservoir Management Board, at least a quorum of the Authority Board or the Reservoir Management Board shall participate from within the combined territory of the Authority Members or the Project Participants, as the case may be. Such meetings shall be accessible to the general public either in person or by video or teleconferencing.

5 Reservoir Management Board Leadership and Administrative Process

- 5.1 Establishment of Reservoir Management Board: Section 3.5 of the Agreement establishes a Reservoir Management Board of the Authority, which is composed of representatives of Project Participants. The Reservoir Management Board functions to exercise the "Delegated Authorities", which are all such powers to design, construct, operate and maintain the Project, and which are not Reserved Powers defined in Section 2.3 of the Agreement, and which are further described in Section 10 of these Bylaws.
- 5.2 Conditions of Reservoir Management Board Membership: Membership on the Reservoir Management Board shall be conditioned upon a Project Participant entering into the standard form of Benefits & Obligations Contract with the Authority, and remaining in good standing according to the terms and conditions of Section 8.1 of these Bylaws. Except for Authority Members who enter into the Benefits & Obligations Contract, consistent with Section 12.3.12 below, the decision of whether to approve an entity for membership on the Reservoir Management Board requires an affirmative vote of at least seventy-five percent (75%) of the weighted vote of the Reservoir Management Board and at least seventy-five percent (75%) of the Authority Board.
- 5.3 Appointment of Reservoir Management Board Representatives: Project Participants (including Authority Members that sign the Benefits & Obligations Contract) in good standing shall appoint their respective representative to the Reservoir Management Board who is either an active member of the Project Participant's legislative body or is a duly appointed senior-level staff that has been delegated the authority by resolution or other action of the legislative body of the Project Participant (or if the Project Participant is not a public agency, by notice to the Authority and Reservoir Management Board from the Project Participant's executive leadership) to make decisions on the Project Participant's behalf.
- 5.4 Reservoir Management Board Leadership: The Reservoir Management Board shall annually elect a Chair and one or more Vice Chairs from among the Project Participants, and may appoint a Secretary and Treasurer and may appoint any other officers or assistant officers as the Reservoir Management Board may determine. The Reservoir Management Board may combine the offices of Secretary and Treasurer. Elections shall occur annually at the regularly scheduled Reservoir Management Board meeting in February, or if for any reason the election does not occur, then at the next meeting of the Reservoir Management Board. For each position, the candidate receiving the majority vote from the Project Participants present shall be the successful candidate. Officers shall assume office upon their election and shall serve until their successor is elected. The Reservoir Management Board Treasurer may be the Authority Treasurer, or if not, shall serve under the general supervision of the Authority Treasurer.
- 5.5 Officer Term Limits: Officers of the Reservoir Management Board shall serve a term that does not exceed one year in duration. They are not precluded from holding consecutive terms.

- 5.6 Reservoir Management Board Officer Vacancy: Should a Reservoir Management Board officer position become vacant, the Reservoir Management Board shall make an appointment for the remaining duration of the vacated position's term.
- 5.7 Quorum and Voting of the Reservoir Management Board: A weighted majority of the Reservoir Management Board representatives representing Project Participants (including Authority Members that have executed the Benefits & Obligations Contract) shall constitute a quorum for the Reservoir Management Board, unless otherwise provided in the Benefits & Obligations Contract. Each Project Participant's voting rights shall be calculated as follows:
- a. An equal number of voting shares for each Project Participant, that being one (1) divided by the total number of Project Participants, multiplied by fifty (50); plus
 - b. An additional number of voting shares for each Project Participant equal to its Capacity Interest identified in the Benefits & Obligations Contract, multiplied by 50.
- The figures calculated pursuant to items (a) and (b) above shall result in a weighted total of all voting shares of 100. Absentee votes shall not be considered. Voting thresholds to approve actions, including routine matters, and Material Change and Shared Decisions Items, shall be as provided in these Bylaws. Voting thresholds shall be based on the Project Participants present at a meeting of the Reservoir Management Board and eligible to vote.
- 5.8 Election to Withdraw: Should a Project Participant elect to withdraw from its participation in the Project, the conditions of any such withdrawal shall be as set forth in the Benefits & Obligations Contract.
- 5.9 Termination of a Benefits & Obligations Contract: The Benefits & Obligations Contract may be terminated with respect to any Project Participant under conditions set forth in the Benefits & Obligations Contract.
- 5.10 Sales and Use Tax Revenues: Any agreement with third parties providing for the acquisition, construction, or management of the Project shall include provisions to provide for allocation of sales and use tax revenues to the County of Colusa or County of Glenn or County of Yolo, as applicable, to the greatest extent provided by law. Such agreements shall be developed in collaboration with the County of Colusa, the County of Glenn, and the County of Yolo.

6 Provisions Common to Authority Board and Reservoir Management Board

- 6.1. Conflict of Interest Code: Each Director of the Authority Board and their delegated alternate and each Project Participant's representative serving on the Reservoir Management Board or their delegated alternate shall timely file Statements of Economic Interest as required by the Authority's Conflict of Interest Code.
- 6.2. Compensation: No compensation shall be granted by the Authority to (a) any Director of the Authority Board or delegated alternate or (b) any Project Participant's representative to the Reservoir Management Board or delegated alternate. When travel has been pre- approved by either the Authority or Reservoir Management Board leadership, respectively, the representative is eligible to recover reasonable travel and related expenses.
- 6.3. Closed Sessions: The Authority Board or the Reservoir Management Board, as the case may be,

may enter into a closed session during a regular, adjourned regular or special meeting to consider matters that may lawfully be considered in such sessions in the manner provided by law. Consistent with the manner in which the Brown Act (Gov. Code § 54950 *et seq.*) has been interpreted and applied, no alternate is to attend closed session in addition to an alternate's Authority Board Director or Reservoir Management Board representative; rather, an alternate may only attend in the place of the alternate's absent Authority Board Director or Reservoir Management Board representative. After a closed session, the Authority Board or Reservoir Management Board will report publicly any action taken in closed session, as well as the vote or abstention of any member or representative present, to the extent required by the Brown Act.

The Authority Board Directors and Reservoir Management Board representatives that attend a closed session may disclose information obtained in a closed session that has direct financial or liability implications for that Authority Member or Project Participant to the following individuals: (a) legal counsel of the Authority Member or Project Participant for purposes of obtaining advice on whether the matter has direct financial or liability implications to it; and (b) members of the legislative body of the Authority Member or Project Participant present in a closed session of that Authority Member or Project Participant.

7 Parties Involved in Project Oversight; State and Federal Partners

7.1. Authority Member:

An Authority Member is an entity that is signatory to the Agreement, that (1) meets the joint powers authority ("JPA") membership requirements of California Water Code § 79759(a) and (b) and, (2) that has the power to exercise the powers that the Authority exercises, as described in the Agreement.

Subject to the terms and conditions of Section 3.3 of the Agreement, the Authority Board retains its sole discretion to offer Authority membership to an eligible entity. Should the Authority Board elect to offer a membership in the Authority to the requesting party, the requesting party shall then be required to execute the Agreement and do all things necessary to remain in good standing as described in Section 8.1 below. Membership in the Authority does not guarantee a new Authority Member's ability to enter into the Benefits & Obligations Contract and, by extension, membership on the Reservoir Management Board.

Authority Membership may be extended in the manner provided for in Section 3.3 of the Agreement to a non-profit mutual water company that complies with the Authority membership requirements.

7.2. Project Participant: An agency, entity or company that is described in Section 3.7.

7.3. State and Federal Partners:

As provided for in Section 3.2 of the Agreement, the Authority may enter into a State or Federal Contract, as applicable, with DWR and/or the Bureau of Reclamation (Reclamation). Pursuant to California Water Code § 79759(b), DWR shall be an Ex Officio Member of the Authority, but shall be non-voting and "shall not control the governance, management, or operation" of the Project. DWR shall not be a Project Participant.

- 7.4 Associate Member: Either (1) a public agency that has as its sole or a principal power the supplying of water (and/or power) to other entities or to retail water (and/or power) users that also meets the joint powers authority membership requirements of California Water Code § 79759(a) & (b), but elects to accept an advisory role from the Authority, (2) a non-profit mutual water company that complies with the non-profit JPA membership requirements of California Water Code § 79759(b), but elects to accept an advisory role from the Authority, or (3) a Project Participant that opts to serve on the Authority Board.

Financial Contribution: An annual contribution of \$5,000, or as otherwise established from time to time by the Board.

Attributes of an Associate Member:

- Shall be non-voting.
- In a non-voting capacity, may serve on standing committees formed by the Authority Board.
- May serve on ad hoc committees appointed by the Authority Board Chair.
- Upon approval by the Authority Board Chair, may chair a committee.
- May participate in closed session.

8 Authority Member and Project Participant Requirements

- 8.1. Good Standing: To participate in their respective decision-making functions, each Authority Member and Project Participant is required to comply with the following conditions:

8.1.1. Compliance with, as applicable, the terms and conditions of the Agreement, these Bylaws, the Benefits & Obligations Contract, and any policies or procedures the Authority Board or the Reservoir Management Board may adopt;

8.1.2. Providing timely payment of financial obligations, namely, (i) for Authority Members, general and administrative costs assessed by the Authority Board, and (ii) for Project Participants, payments required under the Benefits & Obligations Contract.

Failure to remain in good standing may subject the Authority Member or Project Participant to disciplinary action that, at the discretion of the Authority Board or Reservoir Management Board, as the case may be, may include suspension of voting rights and/or removal from either the Authority and/or Reservoir Management Board.

The Authority Board shall make determinations of good standing pertaining to the Authority Board and the Reservoir Management Board. The Reservoir Management Board shall make determinations of good standing pertaining to the Reservoir Management Board.

- 8.2. Representation: An Authority Member's or Project Participant's decision to designate a representative to either the Authority Board or the Reservoir Management Board shall be communicated in writing to the Secretary of the Authority Board and/or Reservoir Management Board, as applicable. The written notification shall include an effective date of the designation.
- 8.3. Conflict of Interest: The Authority has adopted and may from time to time amend its Conflict of Interest Code adopted pursuant to the Political Reform Act of 1974 (Cal. Gov. Code §§ 87000 *et seq.*) and regulations adopted by the Fair Political Practices Commission set forth in Title 2, California Code of Regulations. Directors of the Authority Board and Reservoir Management Board

representatives shall comply with such Code and Political Reform Act and other laws applicable to conflicts of interest.

- 8.4. Local Capacity Interest Representation: The Participants may endeavor to maintain Local Capacity Interest representation, understood as representation by Participants from within the Sacramento Valley hydrologic region, at approximately twenty-five percent (25%) of total Capacity Interest. Participants may count the use of water by Reclamation in the Sacramento Valley hydrologic region pursuant to the Reclamation Partnership Agreement toward the percentage goal provided for in this Section 8.4. Efforts to maintain such a percentage are not intended to, and shall not, limit a Participant's discretion to sell or lease its Capacity Interest.

9 Committees

- 9.1. Common: Each committee of the Authority or the Reservoir Management Board shall have a chartering document approved by the Authority Board or Reservoir Management Board, which will include, among other things, quorum and discussion protocols for conduct of meetings of the committee.

9.2. Committees:

9.2.1. Each committee of the Authority Board shall comprise less than a quorum of the Authority.

9.2.2. Each committee of the Reservoir Management Board shall comprise less than a quorum of the Reservoir Management Board.

9.2.3. Standing Committees: Either Chair may elect to create standing committees as necessary to ensure successful completion of the Authority's mission.

9.2.4. Ad-Hoc Committees: Either Chair may elect to create ad-hoc committees to address specific issues or area of concern to the Authority Board or Reservoir Management Board.

10 Authority Board's Reserved Powers and Delegation of Authorities to Reservoir Management Board

- 10.1. Reserved Powers: Article 2 of the Agreement sets forth the Authority Board's "Reserved Powers" relative to the Project and the manner in which those powers may be exercised.

- 10.2. Delegated Authorities: As provided in Section 3.5 of the Agreement, all such powers to design, construct, operate and maintain the Project, and that are not Reserved Powers, are the "Delegated Authorities" of the Reservoir Management Board. Such Delegated Authorities include the following:

10.2.1. Plan, develop and approve annual operating budget for the Project for consideration by the Authority Board, which consideration is subject only to the limitations identified in Section 2.3.9 of the Agreement.

10.2.2. Plan, approve and oversee Project work plans.

10.2.3. Approval of contracts for consulting services, construction contractors, vendors, and other service providers related to Project implementation; provided, however, that notwithstanding

any term or condition of these Bylaws to the contrary, if the vote against a Construction Contract referenced in Section 3.2.1 of the Benefits & Obligations Contract that causes the value of all construction contracts to exceed \$500 million includes two (2) or more Reservoir Management Board representatives and the disapproving Reservoir Management Board representatives combined represent more than fifteen percent (15%) of the Reservoir Management Board's weighted vote, the Construction Contract shall not be approved.

- 10.2.4. Oversight, evaluation, and enforcement of consultant contracts, including management of change orders and dispute resolution.
 - 10.2.5. Overall cost management to ensure obligations or commitments remain within each annually approved operating budget.
 - 10.2.6. Management and implementation of all aspects of Project design and construction.
 - 10.2.7. Compliance with auditing and accounting requirements applicable to the Authority.
 - 10.2.8. Ensuring compliance to meet commitments set forth in State and Federal Contracts, and permits.
 - 10.2.9. Policy direction over activities to meet commitments set forth in applicable Federal and State permits, rules and regulations.
 - 10.2.10. Adoption of, implementation of, and amendments to, the Operations Plan identified in the Benefits & Obligations Contract.
- 10.3. To the extent action of the Authority Board is reasonably necessary to effectuate the Reservoir Management Board's exercise of its Delegated Authorities, the Authority Board shall take such action without condition or delay absent the Authority Board's demonstration that the action would either (1) be contrary to the law, including rules provided for under any Project permit or entitlement, or (2) violate any contract, including, without limitation, the Benefits & Obligations Contract or a State or Federal Contract. Such action includes, without limitation and by way of example only, approval of a notice of award or execution of a consultant's contract for services upon the Reservoir Management Board's selection of a consultant pursuant to Section 10.2.3 above.
- 10.4. Provided that the Reservoir Management Board's exercise of its Delegated Authorities does not also qualify as a Material Change and Shared Decision defined in Section 12 below, and except as expressly provided in Section 10.2.3 above, such exercise is subject to a weighted majority vote of the Reservoir Management Board.
- 10.5. In no event shall the Reservoir Management Board's inaction or decision not to undertake the exercise of a Delegated Authority be construed as the Reservoir Management Board's waiver of a Delegated Authority, or as authorization for the Authority Board to exercise a Delegated Authority.

11. Authority Board and Reservoir Management Board Delegations to Authority Executive Director

The Executive Director shall have general operational responsibility relative to the Project, including but not limited to the management and evaluation of Project consultants and contractors, administration of the annual Project budget as approved by the Authority Board and Reservoir Management Board and implementing the Project in accordance with policy direction given by the Authority Board and/or Reservoir Management Board. The specific authorities of the Executive Director will be set forth in a delegation of authority matrix that the Authority Board and Reservoir

Management Board may amend from time to time. The delegation of authority matrix will be a joint document and will describe the authorities for decision-making between each body and the Executive Director and as it relates to shared decision making.

12 Material Changes and Shared Decision Making

- 12.1. These provisions shall apply to decisions where the Authority Board and the Reservoir Management Board are required to make joint decisions.
- 12.2. As the Project progresses, what constitutes a Material Change and Shared Decision along with the associated thresholds for a Material Change and Shared Decision may require amendment to these Bylaws.
- 12.3. The following constitute Material Changes which require Shared Decision making, and require both (i) a seventy-five percent (75%) vote of the Authority Board and (ii) unless otherwise specified below, a seventy-five percent (75%) vote of the Reservoir Management Board, to take a formal action or make a policy decision:
 - 12.3.1. Decisions involving acquisition, use, and disposition of lands owned by the Authority.
 - 12.3.2. Local agreements, including, without limitation, land acquisition agreements, land management agreements and Partner Agreements.
 - 12.3.3. Changes to the Sites Water Right.
 - 12.3.4. Changes to the Project that affect the operations of existing shared conveyance facilities owned and/or operated by Authority Members or other entities, and any amendments to Partner Agreements resulting from such operational changes.
 - 12.3.5. Changes to environmental permits and approvals.
 - 12.3.6. Changes in local Capacity Interest representation (see Section 8.4 above) as delineated in the Benefits & Obligations Contract.
 - 12.3.7. Recreation management.
 - 12.3.8. Amendments to these Bylaws; provided that, notwithstanding any term or condition of these Bylaws to the contrary, if the vote against any amendment includes two (2) or more Reservoir Management Board representatives and the disapproving Reservoir Management Board representatives combined represent more than fifteen percent (15%) of the Reservoir Management Board's weighted vote, the amendments shall not be approved.
 - 12.3.9. Amount or terms of debt assumed by the Authority, or other financing instruments secured by the Authority; provided that, notwithstanding any term or condition of these Bylaws to the contrary, if the vote against any such amount or terms includes two (2) or more Reservoir Management Board representatives and the disapproving Reservoir Management Board representatives combined represent more than fifteen percent (15%) of the Reservoir Management Board's weighted vote, the amount or terms shall not be approved.
 - 12.3.10. A decision to terminate the Project.

12.3.11 Formation of a new Joint Powers Authority in the event of termination of the Agreement, as provided for in Section 7.1.1 therein.

12.3.12. Execution of a new Benefits & Obligations Contract.

12.3.13. Establishment of or changes to risk management policies.

12.3.14. Statewide outreach, legislative affairs and public relations

12.3.15. Decisions concerning litigation, including (1) whether to file litigation, (2) legal representation, (3) litigation strategy, and (4) settlement terms; provided that, notwithstanding any term or condition of these Bylaws to the contrary, if the vote against any such litigation decision includes two (2) or more Reservoir Management Board representatives and the disapproving Reservoir Management Board representatives combined represent more than fifteen percent (15%) of the Reservoir Management Board's weighted vote, the litigation decision shall not be approved..

12.3.16. Selection and performance review of Executive Director.

12.3.17. Selection and performance review of General Counsel and all special counsel, with the understanding and acknowledgement that the client of the General Counsel and special counsel is the entire Authority, including the Reservoir Management Board.

12.4. The foregoing is intended to be an exhaustive list of Material Changes and Shared Decisions.

13 Dispute Resolution

13.1. Any dispute between and among Authority Members shall be addressed in the manner provided for in the Agreement.

13.2. Any disputes between the Authority Board and a Project Participant or group of Project Participants shall be addressed in the manner provided for in the Benefits & Obligations Contract.

13.3. Any dispute between the Authority Board and the Reservoir Management Board (a "Dispute") shall be managed as follows:

13.3.1. A party that has identified a Dispute shall, within fifteen (15) days of the event giving rise to the Dispute, provide the Executive Director a written notice of the Dispute. The Executive Director shall investigate the merits of the Dispute and notify the Reservoir Management Board and Authority Board of the Executive Director's findings as to the merits of the Dispute and any recommended action for resolving the Dispute.

13.3.2. Should the party that has lodged the Dispute disagree with the Executive Director's assessment or proposed resolution, its remedy shall be as follows:

(a) The Chair of the Authority Board and the Chair of Reservoir Management Board shall each designate representatives to undertake Dispute resolution discussions among Authority Board representatives, Reservoir Management Board representatives, and the Executive Director. Such designation can include the Chairs themselves, and must include less than a quorum of each body.

(b) If said Dispute is not resolved within 30 (thirty) calendar days through informal discussions among the Executive Director and the designated representatives, either the Authority

Board or the Reservoir Management Board may, upon approval of seventy-five percent (75%) of its membership, submit the Dispute to formal mediation. The parties shall agree to the choice of mediator, or, if the parties cannot agree upon a mediator, one shall be appointed by the Superior Court of Colusa County upon motion for appointment of a neutral mediator. The cost of mediation shall be split evenly between the Authority Board and the Reservoir Management Board.

- (c) If the mediation process does not provide a final resolution to the Dispute raised, either the Authority Board or the Reservoir Management Board may submit the matter to binding arbitration under Section 1280 et seq. of the Code of Civil Procedure.

13.3.3. If necessary to avoid damage or to preserve the status quo prior to the completion of the mediation or arbitration process, either the Authority Board on one hand, or a Project Participant or group of Project Participants on the other, may seek a preliminary injunction or other interlocutory judicial relief in a court of competent jurisdiction. Any such action brought by a Project Participant or Participants shall be brought in the name of such Project Participant or Participants, and not in the name of the Reservoir Management Board.

14 Interpretation

These Bylaws, the Agreement and the Benefits & Obligations Contract are to be interpreted in a manner that attempts to reconcile each with one another, and afford the terms of each the fullest possible effect. In no event shall any such interpretation be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. In the event of a conflict between these Bylaws and the Agreement, these Bylaws shall control. In the event of a conflict between these Bylaws and the Benefits & Obligations Contract, the Benefits & Obligations Contract shall control. Upon the identification of any conflicting terms in the foregoing, the Authority Board and Reservoir Management Board shall undertake prompt and good faith efforts to eliminate such conflicting terms in a manner consistent with the governance structure provided for in the Agreement and these Bylaws.

Project Agreement Member	Voting Memer?	Weight per member (50%)	Weight based on Participation (50%)	Percent Present
				Total Voting Weight
American Canyon, City of	Yes	2.27%	0.88%	3.47%
Antelope Valley-East Kern WA	Yes	2.27%	0.11%	2.42%
Coachella Valley WD	Yes	2.27%	2.20%	5.28%
Colusa County	Yes	2.27%	2.20%	5.28%
Colusa County WD	Yes	2.27%	2.04%	5.05%
Cortina WD	Yes	2.27%	0.10%	2.41%
Davis WD	Yes	2.27%	0.44%	2.87%
Desert WA	Yes	2.27%	1.43%	4.22%
Dunnigan WD	Yes	2.27%	0.65%	3.17%
LaGrande WD	Yes	2.27%	0.22%	2.57%
Glenn-Colusa ID	Yes	2.27%	1.10%	3.77%
Irvine Ranch Water District	Yes	2.27%	0.22%	2.57%
Metropolitan WD of S. CA	Yes	2.27%	11.01%	17.29%
Reclamation District 108	Yes	2.27%	0.88%	3.47%
Rosedale-Rio Bravo Water Storage Dist	Yes	2.27%	0.11%	2.42%
San Bernardino Municipal WD	Yes	2.27%	4.71%	8.70%
San Gorgonio Pass WA	Yes	2.27%	3.08%	6.48%
Santa Clara Valley WD	Yes	2.27%	0.11%	2.42%
Santa Clarita Valley (formerly Castaic Lake)	Yes	2.27%	1.10%	3.77%
Westside WD	Yes	2.27%	1.18%	3.89%
Wheeler Ridge-Maricopa WSD	Yes	2.27%	0.67%	3.19%
Zone 7 WA	Yes	2.27%	2.20%	5.28%
Dept of Water Resources	No	0.00%	0.00%	0.00%
US Bureau of Reclamation	No	0.00%	0.00%	0.00%
# Voting M Total				Total
22				50.00%
				36.67%
				100.0%

Possible Conditions/Offramps	Current Planned Timing for Completion of Conflict/Offramp			
	Prior to Start of Investor Commitment	Prior to end of escrow period	Prior to Entering 1st Major Construction Contract (B&O Sect 3.2.1)	Not Yet Addressed
Governance Conflict Considerations				
<ul style="list-style-type: none"> Questions resolved regarding the durability of the delegation of authorities to the Reservoir Committee 	X			
Other Agreements Considerations				
<ul style="list-style-type: none"> The State and/or the Bureau of Reclamation commit to paying their share of the Operations, Maintenance, Energy and Replacement (OME&R) costs of the project 		X		
<ul style="list-style-type: none"> Authority has signed conveyance agreements with TCCA, GCID, and CBD (term sheet) 	X			
Permit Considerations				
<ul style="list-style-type: none"> Receipt of an acceptable BiOp and sufficient time to determine its effect on the Project cost and benefits 		X		
<ul style="list-style-type: none"> Water rights change to a point that the project does not work 	X			
Finance Plan Considerations				
<ul style="list-style-type: none"> Parties have reached a point of readiness to proceed with payment approaches 		X		
<ul style="list-style-type: none"> Final cost estimate for Capital and Operations and Maintenance for the project 	X (Level 3 cost estimate)		X (Cost estimate commensurate with level of design at that time)	
<ul style="list-style-type: none"> A plan has been developed on how the costs of interest during construction will be paid and allocated 	X			
Risk Considerations				
<ul style="list-style-type: none"> A risk and uncertainty analysis has been performed of the 30% design estimates of capital and OME&R costs 	X			
<ul style="list-style-type: none"> Principles for implementation of a Dam Safety Program in progress 	X			
Operations Considerations				
<ul style="list-style-type: none"> Late concessions that result in material limitations to Sites water 	X			
<ul style="list-style-type: none"> Unexpected Sites water wheeling limitations 	X			
<ul style="list-style-type: none"> Regulatory changes that limit ability to move Sites water through Delta 	Identify as a project risk			
<ul style="list-style-type: none"> Final Plan of Implementation of the Bay Delta Water Quality Control Plan 	Identify as a project risk			
Decision Considerations				
<ul style="list-style-type: none"> Vote threshold for RC approving the resolution for construction contract (BO Sec 3.2.1) 				X

* - address in 'risks' section to Program baseline report



**Draft Benefits & Obligations Contract and Governance Development
Frequently Asked Questions (FAQ) Related to these Subjects
(Updated April 2025)**

The Benefits and Obligations Contract (B&O Contract) between the Sites Authority and the Participants will describe the contractual rights, commitments and obligations each of the Participants and Sites Authority will have to each other. The Governance of the Project is described in the B&O Contract plus the amended JPA and Bylaws. This FAQ is intended to be used for reference in Participants' continued evaluation of these contract documents and to assist the Participants in developing their approach to getting B&O Contract signature authority from their Boards, representing the transition to a final and irrevocable commitment to the Project and a revised governance for Phase 3, 4, and 5.

What does a Participant get when entering into a B&O Contract?

- Participants get a contractual commitment to a pro rata share of the Project's storage space (B&O 3.5) and actual diverted water made under the Sites Water Right, along with control over the use of that space and water in cooperation with other Storage Partners. In addition, the Participant schedules releases of water out of the Reservoir to the primary point of delivery and in some cases, a secondary point of delivery (B&O 4.4). The Sites Authority commits best efforts in achieving all Storage Partners' (Participants, State, Reclamation) requests and where physical limitations in capability occur, the Sites Authority will allocate capacity or provide rescheduling as available to accommodate requests in coordination with Storage Partners.

**What kicks off the process for Participant home-boards to consider signing a B&O Contract?
When will this occur?**

- A recommendation by the Reservoir Committee and a Resolution of the Authority Board to Offer Capacity Interest and water service in the Sites Reservoir Project (a "Resolution to Offer Capacity and Service") through the B&O Contract will initiate the process for home-board review and action. It is expected that this action would be taken after determining sufficient progress has been made on finalizing key permits and agreements and developing an updated project cost estimate. Please refer to the condition precedent reporting document (Agenda Item 3-3) for the current status of the activities to be completed prior to the execution of the B&O Contracts including the needs of the State and Federal partners.
- A deadline for returning an executed B&O Contract would be set at the time of adopting the Resolution. Currently, a six-month period is planned for all Participants to complete their approvals.

Why is signing the B&O Contract critical to the Project?

- Once signed, the B&O Contract represents a final and irrevocable commitment to proceed with the Project. The B&O Contract will supersede all prior Participant Agreements (B&O 2.3) and will be the basis for funding, financing, constructing, and operating the Project. For Participants, the B&O Contract describes the obligations of and the benefits that flow to each of the Participants. For the Sites Authority, it outlines the Sites Authority's obligation to build and operate the Project, largely at the direction of the Participants. (B&O Recitals D-F).
- Together with the amended JPA and Bylaws, these three documents are the contractual commitments of the parties to the governance of the Project through Phase 3, 4, and 5. These documents specify the representation in decision making that each Storage Partner will have in the implementation of the Project.

What is required for the B&O Contract to take effect?

- For the B&O Contract to take effect, the Sites Authority must receive executed counterparts representing 100% of Base and Downstream Capacity Interests and the Sites Authority must also execute the B&O Contract (B&O 2.1.1).
- Having 100% Capacity Interests under contract will require the Sites Authority to execute the State and Federal Contracts (B&O Appendix 2).
- The Sites Authority amended JPA and Bylaws must also be executed which involves each of the JPA member agencies obtaining approval from their individual home boards.

What is required for the Project to enter into construction contracts?

- The B&O Contract outlines that construction of all or a portion of the Project can proceed upon approval of the RC and AB but must include determination by the Sites Authority that it has secured all necessary approvals and permits and a resolution of the Reservoir Committee recommending commencement of construction. The RC/AB have the flexibility to issue a single blanket construction contract approval or approvals of each individual construction contract (B&O 3.2).
- The adopted overall Project Schedule shows "breaking ground" in 2026 which would involve preparations for heavy construction (e.g. mobilization, securing power/water/sewer at field offices, clearing and grubbing, etc) which are activities that will require a construction contract approval.

How will all of the approvals come together to “seal the deal”?

- A process similar to escrow on a home sale is envisioned due to the number of parties involved and the interdependency of the various documents with each becoming effective only upon the completion of all. Achievement of 100% Capacity Interest under contract will require, as a minimum:
 - The Sites Authority upon recommendation of the Reservoir Committee adopts the Resolution to Offer Capacity. This action has the effect of “freezing” all of the contract documents until executed by all parties.
 - Each Participant gets their home board authorization and executes the B&O Contract, which commits the Participant to being a Reservoir Committee member and to be subject to the amended JPA and Bylaws. (22 Agencies)
 - Each JPA member agency approves the Amended and Restated JPA and the Phase 3,4,5 Bylaws. (9 Agencies)
 - The Bureau of Reclamation executes the Reclamation Partnership Agreement. (1 Agency)
 - The California Water Commission authorizes final award of Proposition 1 funds and acknowledges the necessary Proposition 1 Water Storage Investment Program Contracts. (1 Agency)
 - The Sites Authority adopts the Amended and Restated JPA and the Phase 3,4,5 Bylaws, executes the B&O Contracts with each Participant, executes the Proposition 1 Water Storage Investment Program Contracts and the Reclamation Partnership Agreement. (1 Agency)

What happens if the Project is undersubscribed prior to these final commitments being executed?

- We don’t expect this to happen but it is possible, so it is prudent to plan for just in case. The existing priority system was considered as part of Agenda Item 3-4at the March 21, 2025 meeting.
- However, last minute changes to participation levels or payment approach would be disruptive and have a schedule impact because all of the finance planning and contract document preparation is occurring around the current participation.

How does this B&O Contract relate to the other agreements and does anyone have express higher priority?

- To ensure that each Storage Partner has the ability to manage their own storage space and prioritize their use of Sites water, the Authority Board adopted the Storage Principles. The Storage Principles identify that all Storage Partners, including the State

of California and Reclamation, have discretion over release of water from their Storage Allocation. The Storage Principles also identify a process to work through any release conflicts to meet the water demands of Storage Partners.

- Each Storage Partner has rights that are exclusive to them, independent of the other Storage Partners, and within their sole control to the extent another is not impacted (B&O 4.2.3).
- The Sites Authority intends to enter into contracts with the State and Reclamation that have similar terms and conditions as those that are proposed with Participants. However, there are provisions in the state and federal statutes that will need to be addressed in the State and Reclamation contracts which will make these contracts unique to them. Participants will have the final forms of the State and Reclamation agreements available prior to their considering execution of the B&O Contract.

What document takes precedence in the event of ambiguity?

- B&O 1.1.3 stipulates the following order of precedence depending on the extent of the ambiguity but generally with first being the B&O Contract, then the Bylaws, and finally the JPA Agreement.

Are Participants required to participate in the Sites Authority's Project Financing?

- No. The B&O Contract includes provisions for both Financing Participants (B&O 5.3) and Self-Funding Participants (B&O 5.5). The B&O Contract also allows for use of both approaches.
- It should be noted that the group financing may depend on having a high level of participation in Sites Financing from rated entities. It was acknowledged that there are benefits to this group financing in the Guiding Principles (Guiding Principles 4.2).

Can future projects be completed?

- Yes, other projects within or complementary to the Sites facilities are permitted under the B&O Contract. If the project is considered a capital improvement in order to continue to deliver initial Project functions, Participants may not opt out (B&O 9.2). If the proposed project will deliver new benefits, it can be pursued by a subset of Participants (B&O 9.3).

What happens if a Participant doesn't make a payment?

- B&O Section 10 describes the default process in detail. A supplement is included as Exhibit 1 to this document.

What happens if there is a dispute about the Sites Contract Document or any other referenced agreement?

- Each of the governance documents covers the dispute resolution process to be followed depending on who the dispute is between. There are three scenarios covered in the documents thus far: JPA member has a dispute with another JPA member, the Reservoir Committee has a dispute with the Authority Board, a Participant has a dispute with the Authority Board. Supplements are included as Exhibits 2, 3 and 4 to this document.
- Dispute resolution between the Authority Board and/or State and Federal Storage Partners has not yet been determined but agreement to a similar process as to that described in the supplements will be sought.

Why is DWR being identified as the Acquirer?

- Certain Participants are anticipated to secure their Sites Water through their Statement of Charges under the State Water Project. By statute, DWR has the authority to acquire water supplies for state water contractors. Serving in this capacity requires that DWR be signatory to the B&O along with these Participants. In addition, provisions are being proposed that serve to confirm the remaining State Water Contractors are not put into any greater financial or legal risk associated with DWR being in this role for certain Sites Participants.

What is the intention behind maximizing the Sites water right and why is there a Sites Water Right Development Period?

- The appropriative water right process in California includes 2 major steps – the permitting process and the licensing process. Water right permits specify a development schedule or development period to complete construction, implement the terms and conditions of the permit, and beneficially use water under a permit. When the development period is nearing completion, a water right moves to licensing. In licensing, the State Water Board confirms the terms and conditions and issues a license to the appropriator. The license will limit future diversions to the largest volume of water diverted in one single diversion season over the development period. This license is the final confirmation of the water right and remains effective as long as its conditions are fulfilled and beneficial use continues.
- Thus, maximizing the largest volume of water diverted in one single year under the Sites Water Right Permit development period will directly affect the ability of the Authority to divert water under its water right into the future. As all Storage Partners benefit from diversions of water under the Sites Water Right, it is in all Storage Partners' interest to operate Sites Reservoir in the water right development period to attempt to achieve the highest diversion possible in one single year.
- Not all years are years where the Authority may achieve a high diversion rate. For example, if Sites Reservoir is close to full capacity in the fall, it's unlikely that

substantial diversions would occur that winter as the reservoir is likely to fill. However, when reservoir elevations are low headed into the fall/winter months, substantial diversions may be possible with favorable hydrologic conditions.

- Notwithstanding these interests, each Participant retains its ability to call or not call on diversions into its storage space at any time when in good standing.

What is the order for priorities for the diversion and release of Sites water?

- In accordance with all its obligations, the Authority plans to maximize the diversion of Sites Water into storage consistent with physical constraints and hydrologic conditions. As diversions of Sites Water benefit all Storage Partners, diversions will take priority over releases and over diversions of non-Sites Water (termed Other Water in the B&O). Under the Sites Water Right, diversions of Sites Water must be placed in storage in Sites Reservoir before this water can be used by Storage Partners.
- Releases may be constrained by downstream capacity. The Authority will attempt to coordinate with Storage Partners to meet their requested release schedules or request changes and adjustments in the timing of requested releases to avoid capacity constraints. If conflicts cannot be resolved, then releases directly from the reservoir will be made in proportion to each entity's Base Capacity Interest. In downstream facilities, such as the Dunnigan Pipeline, those Storage Partners with a Downstream Capacity Interest will have first priority to available conveyance capacity. Storage Partners without Downstream Capacity Interest will have second priority and will need to use unused capacity or adjust their schedule to avoid constraints. Although capacity constraints are possible, the Authority is hopeful that the Storage Partners will be willing to be flexible in their release timing, to the extent possible, to reduce and avoid conflicts and allow all Storage Partners to move their Sites Water in a season. Releases to meet regulatory requirements, permit conditions, and for delivery to Storage Partners takes priority over management of releases for power generation and recreation.

Exhibit 1: Sites “Default Waterfall”

The Sites Benefits & Obligations Contract (B&O Contract) addresses potential payment defaults by one or more Participants in Section 10.

In the event a Participant fails to make any payment (i.e. debt service and/or any O&M) in full when such payment is due, Sites will inform the Participant of such failure through a written demand pursuant to Section 10.1.1. of the B&O Contract.

The Participant then has 30 days to remedy that payment default, after which Sites would provide written notice of suspension or termination of one or more of: the Participant’s Capacity Interest, interest in the Participant’s Water and rights to the services provided by Sites (Sections 10.2, 10.3 and 10.4 of the B&O Contract). This termination or suspension will become effective 30 days from the written notice of such termination or suspension.

In any case, the defaulting Participant will still be liable for any payment and the Participant’s share of Project Costs until such obligation is otherwise paid or incurred by another Participant (Section 10.5.6. of the B&O Contract).

Upon a default and termination of the Participant’s Capacity Interest and interest in Participant’s Water under section 10.3 and 10.4 of the B&O Contract, Sites is obligated to use its best efforts to transfer the defaulting Participant’s interests for all or a portion of the remaining contract. First, Sites will work with existing Participants to determine if any Participant wishes to increase its Capacity Interest, right to Sites Water and right to convey water by acquiring some or all of the defaulting Participant’s interest. If there is more Participant interest than available capacity, water etc., the defaulting Capacity Interest and interest in the defaulting Participant’s Water will be allocated pro rata among the interested Participants. Otherwise, the defaulted interests will be allocated pursuant to the Participants’ stated quantities.

Upon assignment of the defaulted interests, the assigned Participants will be obligated to pay some (if the defaulting Participant has made partial payment) or all of the amounts unpaid and will be obligated to pay the acquired Project Costs (in addition to the Participant’s original obligations) for the balance of the contract period assigned (Sections 10.5.1, 10.5.2).

If there is insufficient interest among the existing Participants to acquire all of the defaulting Participant’s Capacity Interest and rights to Participant’s Water, Sites will make those interests available to other parties. The new party or parties will assume the obligations and be entitled to the benefits of the Benefits and Obligations Contract. This transfer will not occur unless Sites has determined

the transfer will not affect the tax-exempt status of any Sites Financing (Sections 10.5.3, 10.5.4) and is subject to the shared decision making of the Reservoir Committee and the Authority Board.

If there is insufficient interest among the existing Participants or any qualified outside entity to acquire all of the defaulting Participant's Capacity Interest and interest in the defaulting Participant's Water, all or the remaining amounts will be assigned to the non-defaulting existing Participant's in proportion to their then existing Capacity Rights and interest in Sites Water. In exchange, each of the existing Participants will receive the benefits and incur the obligations to pay for Project Costs associated with those acquired interests (Section 10.5.5).

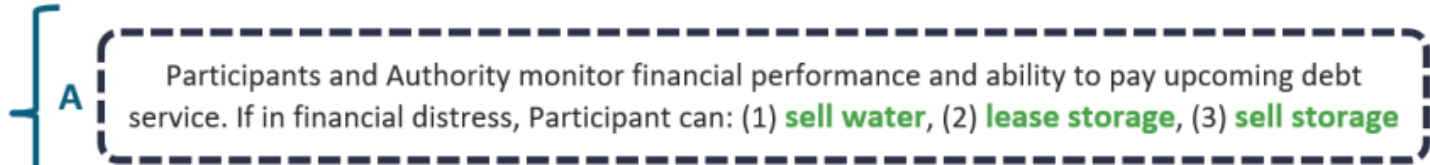
During the pendency of these actions, Sites will utilize amounts in the Liquidity Reserve to make needed payments on an interim basis. The Liquidity Reserve will be replenished to the Liquidity Requirement through payments (if any) from the defaulting Participant(s) and the non-defaulting Participants, who will pay the remaining amounts to meet the Liquidity Requirement in proportion to their Capacity Interest (Master Resolution Section 3.5 and definition of Fixed O&M Costs in the B & O Contract). The Sites Authority would collect such amounts in the next succeeding invoice cycle beginning on January 1.



Project Financial Sufficiency (Default) Waterfall

as presented in the 2021 Draft Plan of Finance / described in Section 10 of the Draft Benefits & Obligations Contract

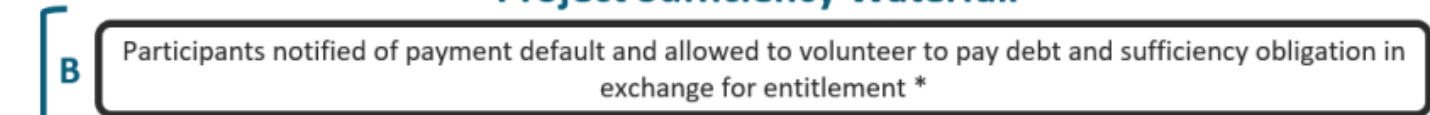
Participant in control of asset/project rights



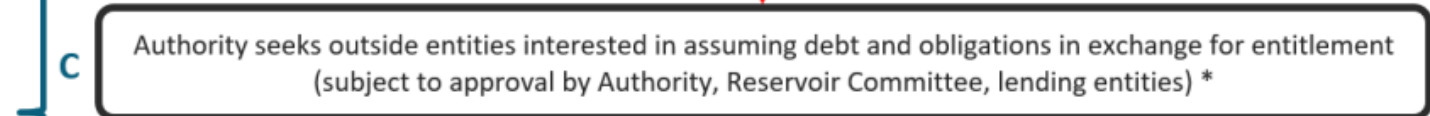
If Participant misses payment, Project Sufficiency Waterfall goes into effect

Project Sufficiency Waterfall

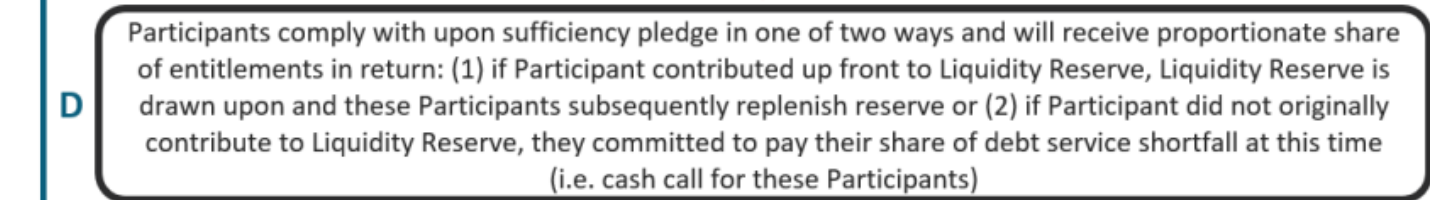
Authority in control of asset/project rights



No volunteers



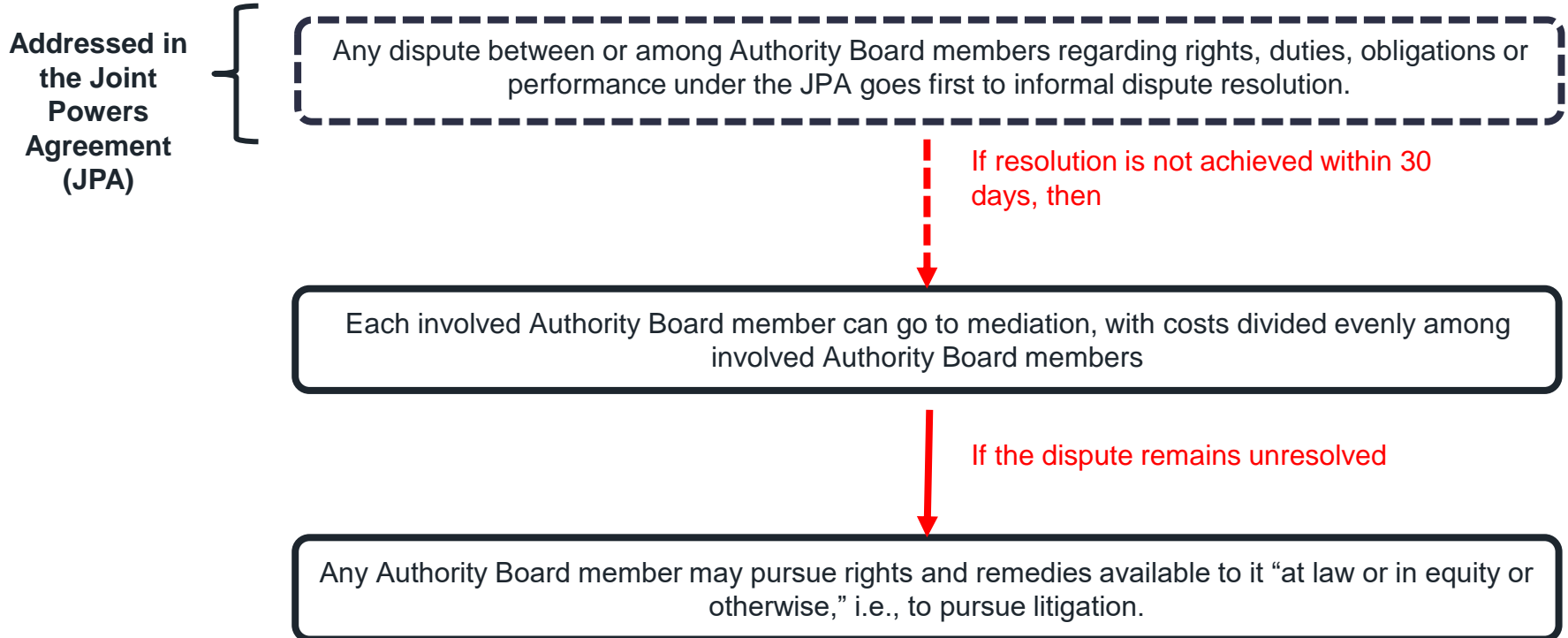
No outside entities interested



* Changes will require lender/rating agency notification and approval

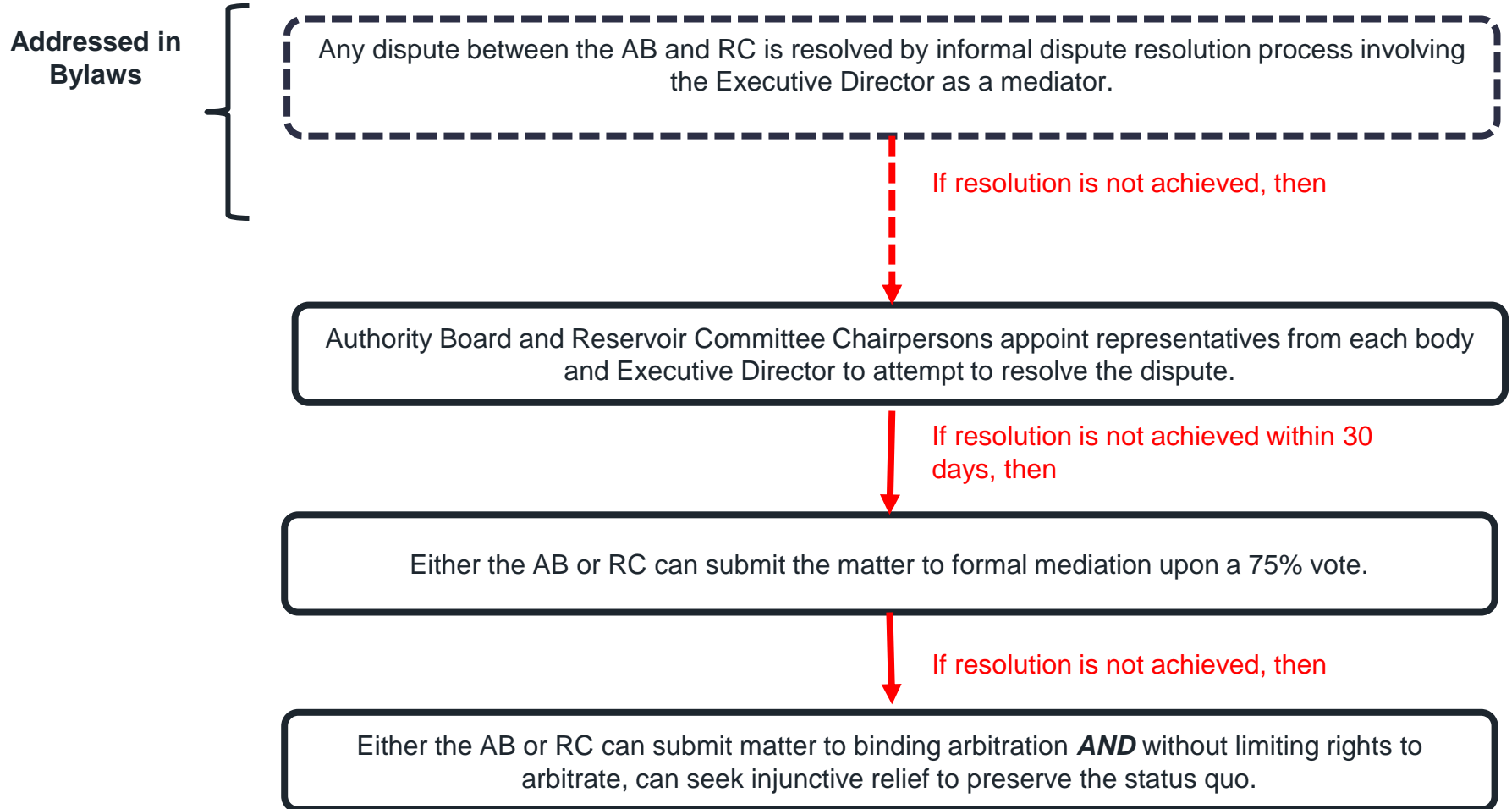


Contract Dispute between Authority Board Members





- Contract Dispute between Authority Board (AB) and Reservoir Committee (RC) Members





Contract Dispute between or Among Authority Board (AB), Participant or Participants

