



Meeting: **Reservoir Committee & Authority Board Agenda** **December 19, 22025**  
**Item 3.1**

Subject: **Draft Benefits & Obligations (B&O) Contract, Bylaws and JPA– Pre-Execution Review with Operations Plan**

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**Requested Action:**

Receive updated drafts of the Benefits & Obligations (B&O) Contract, updated Bylaws, amended and restated Joint Powers Agreement (JPA), and Operations Plan V2.2 and perform a final document review of each in advance of the upcoming start of investor commitment, which will be when the final signature versions (i.e, no further changes accepted) of the documents are circulated.

**Detailed Description/Background:**

**Benefits & Obligations Contract, Joint Powers Agreement, and Bylaws**

The B&O Contract, JPA 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 a Frequently Asked Questions (FAQ) document, were released in April 2025. In July 2025, after receiving review comments from Participants, four key items were identified as remaining to complete and each was assigned to committees/workgroups for resolution.

This report and the updated draft documents reflect the resolution of major items by the committee/workgroups that have been incorporated into the draft documents and next steps toward finalizing the contract documents are outlined.

1. **Project Governance:** There were two outstanding governance items as of the July 2025 report. The first related to concerns in the language to more clearly represent the continuation of Section 2.5 in the JPA related to use of the Tehama Colusa (TC) and Glenn Colusa Irrigation District Canals. Changes to address this concern have been incorporated into the updated draft documents. The second related to concerns about the durability of the delegated powers. While a lot of work has gone into closing this issue and more is now understood about the concerns than before, the Governance Ad Hoc subcommittee has not yet been able to identify contract terms that satisfy the parties raising the concerns. Work will continue in this area.

2. **The “Default Waterfall”:** A cap of 50% of base participation has been proposed to address Participant concerns about unlimited exposure to obligations in case of default by other Participants. Adjustments do not alter the basis for which future involuntary increases are calculated. That basis remains the Participants’ voluntary Capacity Interest (original plus any purchased capacity). This resolution is recommended by the Water Infrastructure Finance and Innovation Act Ad Hoc subcommittee.
3. **Treatment of Downstream Capacity:** Language has been drafted per staff’s understanding of direction from the Downstream Ad Hoc subcommittee. As a reminder, Downstream Capacity addresses allocation and use of downstream facilities including from the TC canal turnout at the Dunnigan Pipeline to and through the Lower Colusa Basin Drain System. A check-in will be held with the Downstream Ad Hoc subcommittee to affirm the language in this draft and to continue to work on language specific to temporary use and leasing.
  - **Temporary Use and Leasing of Downstream Capacity is permitted:** Participants can make available temporary use and/or lease of some or all of their Downstream Capacity to another entity but remain responsible for all associated costs. Sites will continue to bill the original Participant, and arrangements between lessor and lessee are between those entities. Language and clarifications around application of lease conditions and first right of refusal, excess capacity usage and priority, approvals for use of excess capacity, and wheeling fees will continue to be reviewed and developed by the Downstream Ad Hoc.
  - **Toggle to opt in to Downstream Capacity:** All Participants can acquire Downstream Capacity at the time they commit to purchase Base Capacity upon making their declaration of such in their initial execution of the B&O. This is a one-time, opt-in decision - agencies either want Downstream Capacity or not. If opted in, capacity would be allocated proportionally among all entities (including State and Reclamation) that sign up. Upon the closing of the opt in period, which coincides with conclusion of investor commitment, no further opt in periods are planned.
  - **Maintaining the proportional approach:** Downstream Capacity Share is allocated in proportion to Base Capacity Interest among all participants who opt into Downstream Capacity. The capacity is linked to Base Capacity and cannot be sold independently.

- **Participant approval required to change Permanent Downstream Capacity Holdings:** All Downstream Capacity holders must approve any permanent or lease of greater than 10 years reallocation of Downstream Capacity. Approval cannot be unreasonably withheld. Upon approval and redistribution of Downstream capacity, there would be a "buy-in" fee credited proportionately to existing Downstream Capacity holders. Sales and leases of Downstream Capacity would be subject to the same terms and conditions as the sale or lease of base facilities capacity per Section 8 of the B&O.

4. **Conditions Precedent to Construction and "Off-ramps":** The \$500 million expenditure threshold to proceed with construction has been clarified to cover all new costs incurred after the B&O Contracts are effective (not just construction) and represents the Participant share of costs (which totals approximately \$700M when including state and federal contributions). This amount is projected to cover approximately 2 years of budget. This decision is not a second investor commitment period. Instead, it is a Reservoir Management Board decision based on an 85% threshold vote that the project is ready to proceed to heavy construction. This matter was reviewed with the Governance Ad Hoc subcommittee with initial input from the Operations and Engineering Workgroup.

In addition to the governance issue noted above, the following items remain to be resolved:

- Integration with state and federal partner agreements, which are currently being negotiated.
- Resolution of any new comments from Participants (comments are needed as soon as possible to maintain schedule).
- Conformance to the terms and conditions of the Water Right, as applicable.
- Revisions needed to reflect the final role of the Acquirer (Department of Water Resources) in relation to those Participants seeking to pay for their share of Sites costs under the Statements of Charges (SOC). The potential SOC payers are working with DWR on their contract terms, some of which are likely to be required in the B&O Contract, and others that may necessitate a separate agreement altogether.
- Further edits for clarity and consistency.

The final draft of contract documents and the Program Baseline Report will be provided to Participants for final review before the investor commitment period starts and prior to the Resolution to Offer Capacity, targeted for March 2026, and will be followed by the "escrow freeze". As these remaining issues are resolved through their respective committees and workgroups, they will be brought before the full board for consideration prior to release of the next version of the contract documents.

## **Operations Plan V2.2**

Staff prepared and released Version 2.1 of the Reservoir Operations Plan in May 2025 for review and comment by Storage Partners. The Authority received comments from three Storage Partners. These comments have been addressed and the Operations Plan has been updated to Version 2.2 (Attachment D). Comments generally resulted in minor clarifications to the Plan. The only substantive change was made at Reclamation's request and included removing Participant exchanges with Shasta Reservoir. Reclamation will continue to utilize its Storage Allocation to achieve anadromous fish benefits and its own exchanges with Shasta Reservoir through operational flexibility. The operations model continues to reflect Reclamation delivering a portion of its Sites water to CVP contractors served from the GC and TC Canal in lieu of CVP water. However, exchanges with Shasta Reservoir utilizing Participant's Sites water will now be considered on a case-by-case basis.

Comments, if any, on all of these documents are required by Monday, **February 2, 2026**. All four Word documents are in the respective participants' SharePoint folders for your use in making comments.

### **Prior Action:**

July 2025 - Received an update on the progress being made in the development of the Benefits & Obligations Contract, updated Bylaws, and amended and restated Joint Powers Agreement.

May 2025 - Received an update on the Draft Reservoir Operations Plan, Version 2.1.

### **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 believed to be sufficient to cover finalizing these documents.

### **Staff Contact:**

JP Robinette (B&O Contract)

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

Ali Forsythe (Operations Plan)

### **Primary Service Provider:**

Nossaman / Brown & Caldwell (B&O Contract)

Young Wooldridge (Joint Powers Agreement / Bylaws)

### **Attachments:**

Attachment A – Pre-Execution Draft Benefits and Obligations Contract

Attachment B - Pre-Execution Draft updated JPA Agreement

Attachment C - Pre-Execution Draft Phase 3/4/5 Bylaws

Attachment D – Draft Operations Plan V2.2



[Note: The Benefits and Obligations Contract is being provided as a draft, and the terms reflected in this draft remain subject to further revision and negotiation among the parties involved.]

# **Draft Sites Reservoir Benefits & Obligations Contract Among Participants, Acquirer and Sites Authority**

Dated as of [\_\_\_\_], 2025

[Board Report Draft: ~~April 15~~December 19, 2025]



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*Sites Project Authority – Benefits & Obligations Contract – Sites Reservoir Project*

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**Draft Sites Reservoir Benefits & Obligations Contract Between the Sites Authority, each Participant in Appendix 2 and the Acquirer**

This Sites Reservoir Benefits & Obligations Contract (this “**Contract**”), among the Participants listed in Appendix 2, the Acquirer and the Sites Project Authority (“**Sites Authority**”), sets forth the rights and obligations of the Parties with respect to the Project. Unless the context otherwise requires, capitalized acronyms, abbreviations and terms used in this Contract shall have the meanings given in Appendix 1.

**RECITALS**

A. The Sites Authority is a California Joint Powers Authority operating under and by virtue of Section 6500 et seq., of the California Government Code and formed in accordance with the Sites Authority JPA Agreement. The Sites Authority was established for the purpose of designing, constructing, owning, operating and maintaining the Project. The JPA Agreement together with the Phase 3-4-5 Bylaws are in full force and effect as at or prior to the date of this Contract.

B. The Project Facilities consist of Sites Owned Facilities and Partner Facilities.

C. Partner Facilities include facilities owned, operated, maintained and/or repaired by the Tehama-Colusa Canal Authority, the Glenn-Colusa Irrigation District, and Reclamation District 108. Use of these Partner Facilities for Project purposes is subject at all times to Section 2.6 of the JPA Agreement, which prohibits the Sites Authority from entering into any agreements or otherwise taking 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 the Tehama-Colusa Canal Authority, the Glenn-Colusa Irrigation District, and Reclamation District 108 (and, in the case of the Tehama-Colusa Canal Authority, the water agencies it serves) or the operations of their Partner Facilities or any facilities they operate under contract without the express written consent of the Tehama-Colusa Canal Authority, the Glenn-Colusa Irrigation District, and Reclamation District 108, depending on which facilities are at issue.

CD. In compliance with the California Environmental Quality Act (“**CEQA**”) and its implementing guidelines, the Sites Authority released a Final Environmental Impact Report (“**Final EIR**”) for the Project on November 2, 2023. The Sites Authority certified the Final EIR and adopted the Project with Board Resolution 2023-02 at its November 17, 2023 meeting.

DE. Subject to compliance with Applicable Law and Governmental Approvals (including CEQA and NEPA), the Sites Authority intends to, (i) design and construct the Sites Owned Facilities and certain other facilities, (ii) own the Project Assets, excluding the Partner Facilities,, (iii) operate and maintain the Sites Owned Facilities; and (iv) contract with certain entities for the use, operations and maintenance of and improvements to and conveyance through existing Partner Facilities, in each case, for the benefit of the Storage Partners and in accordance with this Contract.

EE. The Sites Authority will grant each Storage Partner, and each Storage Partner will own a Base Facilities Capacity Interest. Each Participant will receive certain benefits and have certain obligations in accordance with this Contract. Storage Partners who request it, will also be granted a Downstream Facilities Capacity Share in accordance with this Contract.

~~FG~~. The Sites Authority expects to obtain the Sites Water Right and will provide water service to the Participants in accordance with this Contract and in accordance with the direction of the Participants, consistent with Section 4.12 of this Contract.

~~GH~~. DWR will acquire Sites Water on behalf of the SWP Participants as the Acquirer and convey Sites Water through the State Water Project Facilities as further described in Section 1.3 of this Contract.

~~HI~~. The Sites Authority intends to enter into certain agreements and contracts with State and Federal agencies pursuant to which the State and Reclamation will receive certain benefits (including water service) and have certain obligations related to the Project. These include the (i) Reclamation Partnership Agreement (i) State and Federal Operations Agreement; (iii) Public Benefits Agreements with State Agencies; and (iv) Proposition 1 Water Storage Investment Program Contract with the California Water Commission.

In consideration of the above Recitals and of the mutual promises and agreements contained in this Contract, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

## **SECTION 1. CONTRACT APPLICABILITY; DEFINITIONS AND INTERPRETATION**

### **1.1 Contract and Relationship with JPA Agreement**

1.1.1 This Contract means the contractual relationship among the Parties:

(a) for Self-Funding Participants, constituted by:

(i) this Contract and all Appendices and Exhibits (excluding Section 5.3 and Appendix 7 except to the extent set out in Section 1.1.1(a)(iii));

(ii) Section 5.5 only to the extent that a Participant satisfies all or a portion of its Fixed Project Cost Funding Obligations through Self-Funding Participant Cash Payments, and then only for the term of any payments for Fixed Project Costs using proceeds from such Self-Funding Participant Cash Payments; and

(iii) the applicable payment appendix in Appendix 7A, Appendix 7B or Appendix 7C, identified for each Participant in the Project Specific Information; or

(b) for Financing Participants constituted by:

(i) this Contract and all Appendices and Exhibits (excluding Section 5.5 and Appendix 7 except to the extent set out in Section 1.1.1(a)(iii));

(ii) Section 5.3 only to the extent that it satisfies all or a portion of its Fixed Project Cost Funding Obligations through participation in a Sites Financing. With respect to a Financing Participant, the terms of Section 5.3 are not in effect at such times as there is no outstanding Sites Financing or the Sites Authority is not in the process of entering into a Sites Financing in which such Participant is or will be participating; and

(iii) the applicable payment appendix in Appendix 7A, Appendix 7B or Appendix 7C, identified for each Participant in the Project Specific Information.

1.1.2 Where the Sites Authority or the Sites Authority Board is authorized to take actions with respect to the Project under this Contract, such authorization extends to any committee of the Sites Authority to the extent such responsibility for such actions have been lawfully delegated to such committee by the Sites Authority Bylaws or by an action of the Sites Authority Board, including the Reservoir Management Board.

1.1.3 The Sites Authority Bylaws, the JPA Agreement and this Contract are to be interpreted in a manner that attempts to reconcile each with one another and affords 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. If there is an ambiguity, discrepancy, inconsistency or conflict between this Contract and the JPA Agreement or the Sites Authority Bylaws, then subject to Section 1.1.4, the following order of precedence from highest to lowest shall apply:

- (a) this Contract;
- (b) the Sites Authority Bylaws; and
- (c) the JPA Agreement.

Notwithstanding anything in the foregoing to the contrary, in the event of any conflict between the JPA Agreement and either the Sites Authority Bylaws or this Contract, the JPA Agreement shall control as to Section 2.6 of the JPA Agreement, which provides as follows:

“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. Notwithstanding anything to the contrary in the Bylaws, the Benefits & Obligations Contract, or any other Authority document, record or instrument concerning Project operations or governance, as the same may now exist or be amended from time to time, in no event shall the Authority shall 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.”

1.1.4 The Sites Authority Board, each Participant and the Acquirer shall undertake prompt and good faith efforts to eliminate any ambiguity, discrepancy, inconsistency or conflict that may exist or arise among the documents described in Section 1.1.3 in a manner consistent with the governance structure for the Project described in Section 4.12.

## 1.2 Interpretation

In this Contract, unless the context otherwise requires:

- 1.2.1 the singular includes the plural and vice versa;

1.2.2 references to statutes or regulations include all statutory or regulatory provisions consolidating, amending or replacing the statute or regulation referred to;

1.2.3 the words “including,” “includes” and “include” are deemed to be followed by the words “without limitation”;

1.2.4 a reference to a Section is a reference to a Section of this Contract;

1.2.5 a reference to any entity includes such entity’s successors and permitted substitutes and assigns; and

1.2.6 words of any gender used in this Contract shall include each other gender where appropriate.

### 1.3 Role of State of California in Project

1.3.1 By entering into this Contract:

- (a) DWR agrees to fulfill the role of Acquirer on behalf of the SWP Participants and perform the obligations set out in this Contract provided that DWR’s financial obligations under this Contract are limited to funding provided to it by the SWP Participants;
- (b) DWR will acquire Sites Water on behalf of the SWP Participants and convey Sites Water through the State Water Project Facilities, under separate agreement(s), for delivery, as required by the SWP Participants and approved by DWR;
- (c) DWR will be an ex-officio member of the Sites Authority per California Water Code Section 79759;
- (d) DWR will coordinate with the Sites Authority and SWP Participants on scheduling and approval of any delivery of Sites Water in accordance with such Participants’ respective contracts with DWR; and
- (e) DWR may convey Water through the State Water Project Facilities in accordance with applicable contracts with DWR.

1.3.2 DWR is a State agency within the California Natural Resources Agency responsible for owning, constructing, operating and maintaining the State Water Project Facilities and oversees these storage and conveyance facilities located throughout California. Acting under its State Water Project authorities, DWR may participate in water rights proceedings involving the Project or enter into contracts with the Sites Authority, and this Contract does not affect or limit DWR’s ability to engage in these activities.

1.3.3 DWR also has the responsibility under Proposition 1 in California Water Code to enter into Public Benefit Agreements, including with the Sites Authority, provided certain requirements are satisfied. The responsibilities to enter into Public Benefits Agreements are separate from DWR’s role as an ex-officio member of the Sites Authority, and this Contract neither constitutes a Public Benefit Agreement nor affects DWR’s ability to enter into such agreements.



1.3.4 DWR has other responsibilities under State law for water management in the State, including relating to flood management and dam safety, that may relate to the Project, and this Contract does not affect or limit DWR's responsibilities under these laws.

1.3.5 Except where the Acquirer has a right, obligation or liability expressly stated in this Contract, DWR shall have no rights, obligations or liabilities under this Contract.

#### 1.4 Colusa County / Sites Authority MOU

This Contract incorporates in the Colusa County / Sites Authority MOU in its entirety by reference.

### **SECTION 2. TERM; PRIOR AGREEMENTS; RESERVOIR MANAGEMENT BOARD; PAYMENT APPENDICES**

#### 2.1 Term

2.1.1 This Contract shall take effect upon:

(a) due execution of:

(i) the Contract by each of the Participants and the Acquirer; and

(ii) State and Federal Contracts by the Sites Authority, Reclamation and the State,

collectively representing ~~Capacity Interests equal to~~ 100% of the Base Facilities Capacity Interest ~~in Base Facilities and 100% of the Capacity Interest in Downstream Facilities~~;

(b) delivery to the Sites Authority by each Participant and the Acquirer of (i) an opinion from an attorney or firm of attorneys in substantially the applicable form attached as Appendix 5-1 or Appendix 5-2 and authorization as required by Section 15.13; and (ii) an executed version of the Payment Appendix applicable to such Participant in substantially the form attached as Appendix 7A, Appendix 7B or Appendix 7C (as applicable); and

(c) due execution by the Sites Authority of this Contract and delivery to such Participants of an opinion for the Sites Authority of special counsel and general counsel to the Sites Authority, in substantially the form of Appendix 6.

2.1.2 This Contract shall:

(a) be dated and commence as of the signature and delivery date of the last executing and delivering Participant under Section 2.1.1 (the "**Effective Date**"); and

(b) as to each Participant and the Acquirer, and subject to the terms and conditions of the Sites Authority Bylaws and this Contract, continue for so long as each of that Participant and the Sites Authority continue to have their obligations under this Contract.

2.1.3 Section 1, Section 2, Section 3.4, Section ~~Error! Reference source not found.~~3.5, Section 4, Section 5, Section 6, Section 7, Section 8, Section 9, Section 10, Section 11, Section 12, Section 13, Section 14 and Section 15 of this Contract shall be perpetual unless

terminated in accordance with this Contract. Section 3.1, Section 3.2, and Section 3.3 shall be in effect until Completion.

2.2 Notwithstanding the Effective Date of this Contract being fixed on the date that all Participants, the Acquirer, the Sites Authority, Reclamation and the State (in their capacities as signatories to the State and Federal Contracts), have complied with Section 2.1.2.1.1, it is agreed by each Participant that in consideration for the Sites Authority's signature to this Contract, and for its commitment to use its best efforts to obtain the commitment of all Participants, the State and Reclamation (in their capacities as signatories to the State and Federal Contracts), to the Project, each Participant upon its execution and delivery of this Contract to the Sites Authority along with the required authorization and opinion described in Section 15.13 and any required evidence of compliance as required by Section 2.1.1 shall be immediately bound not to withdraw its respective offer made to enter into this Contract as executed and/or supplemented or to decrease or terminate its Capacity Interest and Share for a period of 180 days from the date of the execution of this Contract by such Participant.

## 2.3 Prior Agreements

2.3.1 All Interim Agreements are terminated and of no further force and effect upon the Effective Date and all obligations identified in the Interim Agreements have been fulfilled. Such Interim Agreements shall have no force or effect on this Contract or the construction, and operation of the Project, including its governance.

2.3.2 Any unexpended funds made available to the Sites Authority in accordance with such Interim Agreements shall be transferred into the Revenue Fund and credited by the Sites Authority to amounts payable by applicable Storage Partners under this Contract for their respective Fixed Project Costs.

## 2.4 Reservoir Management Board

By executing this Contract, each Participant shall (i) become a member of the Reservoir Management Board, and (ii) actively participate in the Reservoir Management Board, or shall appoint a representative to participate in the Reservoir Management Board on behalf of such Participant, each in accordance with the JPA Agreement and the Sites Authority Bylaws.

## 2.5 Payment Appendices

2.5.1 Subject to Section 2.5.2, if at any time a Participant elects to change its source of payment for Fixed Project Costs which election shall be subject to the Sites Authority's approval, in its reasonable discretion, such Participant shall provide to the Sites Authority an executed version of the applicable Payment Appendix reflecting such change.

2.5.2 If any Project Obligation under a Financing Agreement is outstanding (but only to the extent required under such Financing Agreement), a Participant's election to change its source of payment for Fixed Project Costs shall be subject to the terms of such Financing Agreement, including the right of the applicable Lender to consent to such change, if any.

## SECTION 3. PROVISIONS APPLICABLE TO DEVELOPMENT, CONSTRUCTION AND OWNERSHIP

### 3.1 Obligation of the Sites Authority to Construct and Complete the Project

3.1.1 Subject to compliance with all Applicable Law and Governmental Approvals, the Sites Authority agrees to use commercially reasonable efforts to construct and complete the Project in accordance with the Approved Design Documents, provided that (i) each Participant provides its share of all required funding under this Contract; (ii) the Sites Authority is not prohibited by Applicable Law from proceeding; and (iii) the Sites Authority and the Reservoir Management Board have not mutually determined the Project to be infeasible and impractical in accordance with Section 4.12.

3.1.2 By this Contract taking effect and the Sites Authority accepting payments from Participants and the Acquirer, the Sites Authority does not warrant that it will construct and achieve Completion.

### 3.2 Conditions Precedent to Construction

**[Note to Participants: The list of conditions precedent may be revised closer to execution of the Contract.]**

3.2.1 Subject to Section 3.2.2, the Sites Authority shall commence construction, through execution of a Construction Contract of all or a portion of the Project, upon satisfaction of the following conditions:

- (a) the Sites Authority Board's execution of ~~the~~initial Construction Contract, provided such action is permitted under Applicable Law, Governmental Approvals [and any necessary Partner Agreements]; and
- (b) receipt by the Sites Authority of (i) a certified resolution of the Reservoir Management Board confirming commencement of all or a portion of construction under that Construction Contract; and (ii) Governmental Approvals [and any necessary Partner Agreements] required to commence all or a portion of construction by the Sites Authority.

3.2.2 Where the total ~~cost of construction authorized by the Board under one or any combination of construction contracts will~~amount of Participants' payments under this Contract from and after the Effective Date exceed \$500,000,000, the Reservoir Management Board shall provide a ~~one-time~~one-time certified resolution authorizing further ~~construction~~expenses of the Project in accordance with the Sites Authority Bylaws before further ~~construction~~expenses may ~~proceed~~incurred.

~~3.2.3 The conditions precedent to construction in Section 3.2.1 are solely for the benefit of the Sites Authority. Such conditions precedent to construction may be waived (a) in whole or in part by action taken by each of the Sites Authority Board and the Reservoir Management Board, and (b) with or without conditions by the Sites Authority Board and Reservoir Management Board, and (c) without any action of the governing body of any individual Participant.~~

### 3.3 Construction Progress Reports

The Sites Authority will provide Participants and the Acquirer with construction progress reports in a form and substance approved by the Reservoir Management Board.

### 3.4 Ownership of Project Assets

Subject to Section ~~Error! Reference source not found-3.5~~, the Sites Authority shall own all Project Assets (excluding the Partner Facilities).

### 3.5 Base Facilities Capacity Interest

The Sites Authority hereby grants to each Participant, and each Participant shall own, a Base Facilities Capacity Interest in the amounts described in the Project Specific Information and otherwise in accordance with this Contract.

### 3.6 Downstream Facilities Capacity Share

The Sites Authority shall allocate to each Participant who requests to participate in the funding and use of Downstream Facilities, a Downstream Facilities Capacity Share in the amounts described in the Project Specific Information and otherwise in accordance with this Contract.

### 3.7 Updates to Project Specific Information and Sites Operations Plan

3.7.1 The Parties agree that the Project Specific Information and the Sites Operations Plan may be updated from time to time to reflect changes or issues impacting the Project without amending the terms of this Contract.

3.7.2 No less frequently than annually, the Sites Authority will update:

- (a) the Project Specific Information to reflect (i) any changes in each Storage Partner's Capacity Interest and Share percentage as a result of sale or acquisition of Base Facilities Capacity Interest and change, if any, in Downstream Capacity Share resulting from such sale or acquisition in accordance with Section 8, any acquisition or disposition of Base Facilities Capacity Interest in accordance with Section 10, or any other changes in Capacity Interest and Share in accordance with this Contract; and (ii) other changes to the Project Specific Information to reflect changes or issues impacting the Project; and
- (b) Appendix 8 to reflect changes, if any, to the Sites Operations Plan made in the prior year.

## **SECTION 4. PROVISIONS APPLICABLE TO OPERATIONS AND MAINTENANCE**

### 4.1 Obligation of the Sites Authority to Operate and Maintain the Project

4.1.1 Subject to compliance with all Applicable Law and Governmental Approvals, the Sites Authority agrees to diligently operate and maintain the Project Facilities in accordance with the Sites Operations Plan and Good Industry Practice, provided that (i) the Participants and the Acquirer provide all funding required under this Contract for operations and maintenance; and (ii) the Sites Authority and the Reservoir Management Board have not mutually determined the continued operation of the Project is infeasible and impractical.

4.1.2 The Sites Authority shall protect the Sites Water Right and manage, control and protect Sites Water in accordance with Good Industry Practice. The Parties agree that maximizing diversions and beneficial use under the Sites Water Right is in the best interest of all Parties. Subject to compliance with all Applicable Law, Governmental Approvals, Good Industry Practice and Section 8, the Sites Authority and the Participants agree to take reasonable steps to optimize the diversion and beneficial use of Sites Water.

#### 4.2 Sites Operations Plan

4.2.1 Each Participant and the Acquirer acknowledges and understands that the storage and conveyance of Water through the Project Facilities consistent with each Storage Partner's Capacity Interest and Share will be implemented in accordance with the Sites Operations Plan.

4.2.2 The initial form of the Sites Operations Plan approved by the Reservoir Management Board and the Sites Authority (as applicable) in accordance with the Sites Authority Bylaws is included as Appendix 8. Following a change to the Sites Operations Plan in accordance with Section 4.2.4, the updated Sites Operations Plan will be attached to this Contract in accordance with Section 3.6.

4.2.3 The Sites Operations Plan is intended to implement and provide detail to the terms of this Contract and shall not modify or amend this Contract in a manner that results in a material adverse effect on a Participant's rights under this Contract or the State or Federal Contracts (as applicable) to control its respective Base Facilities Capacity Interests, or its ability to have Sites Water diverted into, stored in, or released through the Project Facilities on a pro-rata and substantially similar basis with other Storage Partners taking into account each Storage Partner's Base Facilities Capacity Interest. In the event of any inconsistency between the Sites Operations Plan and this Contract, the terms of this Contract shall prevail.

4.2.4 Subject to the Sites Authority Bylaws and the JPA Agreement, changes to the Sites Operations Plan are subject to approval by the Reservoir Management Board and the Sites Authority (as applicable) as described in the Sites Authority Bylaws. Prior to any such approval, the prior version of the Sites Operations Plan shall remain in full force and effect.

#### 4.3 Use of Capacity Interest and Share

Each Participant acknowledges and agrees:

4.3.1 that its Capacity Interest and Share shall only be used for the storage and conveyance of Sites Water, or storage and conveyance of Other Water which may be stored in and conveyed through the Project Facilities in accordance with Applicable Law, Governmental Approvals and the Sites Operations Plan;

4.3.2 that except as set out in Section 8, it may not use another Storage Partner's Capacity Interest and Share for the storage and conveyance of Sites Water or Other Water, provided that Storage Partners with unused conveyance capacity shall permit other Storage Partners to use such unused conveyance capacity in accordance with Applicable Law, Governmental Approvals and the Sites Operations Plan;

4.3.3 that it shall utilize Sites Water in accordance with Applicable Law and Governmental Approvals and shall timely provide any information the Sites Authority may need

to comply with Applicable Law and Governmental Approvals as described in the Sites Operations Plan; a

4.3.4 that it shall make reasonable efforts to optimize diversion and beneficial use of Sites Water during the Sites Water Right Development Period and shall not interfere with the Sites Authority's efforts to optimize diversion and beneficial use of Sites Water during the Sites Water Right Development Period;

4.3.5 Storage Partners who hold a Downstream Facilities Capacity Share have first priority to use the Downstream Facilities as described in the Operations Plan; and

4.3.6 Storage Partners who do not hold a Downstream Facilities Capacity Share shall have second priority to use of the Downstream Facilities as described in the Operations Plan.

#### 4.4 Storage and Release of Sites Water

4.4.1 Subject to Applicable Laws and Governmental Approvals, the diversion of Sites Water to storage will take priority over the release of Water. Sites Water diverted from the Sacramento River by the Sites Authority is first used to fill the Inactive Storage Pool. After the Inactive Storage Pool is filled, Sites Water diverted by the Sites Authority will be allocated to Storage Partners in Sites Reservoir based on each Storage Partner's Base Facilities Capacity Interest up to the Storage Partner's Storage Allocation, including any Storage Allocation leased, or acquired by such Storage Partner in accordance with Section 8 of this Contract. If a Storage Partner's Storage Allocation is not available or is full, then diverted Sites Water will be allocated to the remaining Storage Partners who have available Storage Allocation in proportion to their Storage Allocation. Notwithstanding the foregoing, Sites Water originating from Funks Creek and its tributaries, Stone Corral Creek and its tributaries, and the watershed of Sites Reservoir shall be allocated consistent with the Colusa County/Sites Authority MOU.

4.4.2 In accordance with the timing and process described in the Sites Operations Plan and Section 4.3, each Participant shall provide the Sites Authority with (i) a projected request for Sites Water the Participant seeks to have stored in the Project ("**Storage Opportunity Request Form**"), which, when added to such Participant's Stored Water, shall not exceed the sum of (a) that Participant's Storage Allocation; and (b) any other Storage Allocation shared, leased or acquired by such Participant in accordance with Section 8 of this Contract; and (ii) a projected schedule for releases of such Participant's Stored Water ("**Release Request Form**").

4.4.3 Upon receipt of each Participant's Storage Opportunity Request Form, Release Request Form, and any other forms required in the Sites Operations Plan, the Sites Authority will review each Participant's proposed schedules and make necessary modifications in the manner provided in the Sites Operations Plan to ensure that the amounts, times, and rates of delivery of Sites Water to the Participant will be consistent with the Participant's Capacity Interest and Share, Storage Partner's Stored Water, Storage Allocation and the Sites Authority's overall delivery ability, considering the then current delivery schedules of all Storage Partners. The Sites Authority will not unreasonably withhold any decisions made pursuant to this subsection and will not make a decision that results in a material adverse effect on a Storage Partner's rights under this Contract or the State and Federal Contracts (as applicable) to control its Capacity Interest and Share, or its ability to have Water diverted into, stored in, or released through the Project Facilities in accordance with its Capacity Interest and Share on a pro-rata and substantially similar basis with other Storage Partners.



4.4.4 All Storage Partners shall bear the risk of loss of Sites Water and any shortfall or reduction in Sites Water as set out in the Sites Operations Plan.

4.4.5 The Project provides water supply and water supply related environmental benefits, including water quality benefits, as well as flood control, recreation, and power generation benefits. The Project will be operated so as to maximize the water supply and water supply related environmental benefits while continuing to provide the flood control and recreational benefits.

#### 4.5 Other Water

4.5.1 Subject to Applicable Law and Governmental Approvals, all Storage Partners may store Other Water in, or convey Other Water by use of the Storage Partner's respective Capacity Interest and Share in the Project Facilities as described in the Sites Authority Bylaws. The use of Project Facilities for Other Water must not negatively impact other Storage Partners' rights as set forth in this Contract or the State and Federal Contracts (as applicable), and shall be subject to the ~~approvals~~approval of the Sites Authority as described in the Sites Authority Bylaws, ~~and such~~whose approval shall not be unreasonably withheld. Any costs to the Sites Authority associated with Other Water shall follow Beneficiary Pays Principles, including if the Sites Authority is required to take actions to comply with Applicable Law or obtain or modify any new or existing Governmental Approvals.

4.5.2 The diversion and conveyance of Sites Water into Sites Reservoir will be prioritized over the diversion and conveyance of Other Water into Sites Reservoir.

4.5.3 Other Water shall accrue losses in a substantially similar manner as Sites Water and the Storage Partner seeking to store or convey Other Water shall bear the risk of loss of the Other Water and any shortfall or reduction in Other Water.

#### 4.6 Release of Water

4.6.1 The Delivery Point for Water shall be either Funks Reservoir or the Terminal Regulating Reservoir. The Sites Authority's obligations and responsibilities for Water terminate at the Delivery Point.

4.6.2 The Sites Authority will convey released Water through Project Facilities in accordance with the Sites Operations Plan. Storage Partners ~~will~~may specify a Secondary Delivery Point(s) in their respective Release Request Form as described in the Sites Operations Plan, subject to reasonable approval by the Sites Authority. The Sites Authority may take actions reasonably practicable to assist Participants in conveying their Water to a Secondary Delivery Point(s). Such actions taken by the Sites Authority are subject to Applicable Law, Governmental Approvals and Partner Agreements and Section 4.1.1(i). Participants shall bear all costs (monetary or otherwise), the risk of loss and any shortfall or reduction in Water between the Delivery Point and the Secondary Delivery Point(s). Any costs borne by the Sites Authority associated with delivering Water to the Secondary Delivery Point shall follow Beneficiary Pays Principles.

4.6.3 In the event that requests by Storage Partners for the conveyance of Water to, or release of Water from, the Project exceed available conveyance capacity at any Project Facilities, such request will be considered and determined by the Sites Authority in accordance with the Sites Operations Plan; provided that Storage Partners have a right to use facilities

necessary to convey Water to the Delivery Point in proportion to their Base Facility Capacity Interest; and to Downstream Facilities in proportion to their Downstream Facilities Capacity Share.

4.6.4 The Sites Authority may temporarily discontinue or reduce the conveyance of Water to, and release of Water from, the Project Facilities as described in the Sites Operations Plan.

4.6.5 ~~The~~Each Participant shall indemnify the Sites Authority, its directors, officers, employees, agents, and assigns on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising in connection with the control, carriage, handling, use, disposal, or distribution of Water beyond the Delivery Point, except for any damage or claim arising in connection with (i) acts or omissions of the Sites Authority or any of its directors, officers, employees, agents, and assigns with the intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the Sites Authority or any of its directors, officers, employees, agents, and assigns; (iii) negligence of the Sites Authority or directors, officers, employees, agents, and assigns; (iv) damage or claims resulting from a malfunction of Project Asset.

#### 4.7 Power Generation

To the extent power, energy or other services are generated by Project Facilities, sales of such power, energy and all other services will be managed by the Sites Authority. Any revenues received by the Sites Authority for the sale or other disposition of power, energy or other services shall be used to offset Variable O&M Costs, (including funding of reserves in accordance with the Sites Authority Policies), and to the extent that such revenues exceed Variable O&M Costs in a Fiscal Year, any remaining revenues will be used to offset Fixed O&M Costs. Any such revenues will be allocated by the Sites Authority to Storage Partners in proportion to the amount of Water released on behalf of the Storage Partners during the Fiscal Year.

The Parties acknowledge and agree that the release of Water has a higher priority than the generation of power by Project Facilities and power generation is not guaranteed to Storage Partners with the release of Water.

#### 4.8 Entry and Inspection

The Sites Authority and the Participants each agree that Participants shall be allowed, at reasonable times and upon reasonable prior notice, and at the Participant's expense, to enter onto the Sites Owned Facilities for reasonable purposes (including dam safety), in accordance with the Sites Authority's reasonable safety regulations and policies and subject to Applicable Law and Governmental Approvals.

#### 4.9 Measurement of Water

The Sites Authority shall measure, or cause to be measured, Water and shall keep and maintain accurate and complete records of diversions, storage and release of Water in accordance with the Sites Operations Plan.

#### 4.10 Excused Performance



4.10.1 Upon the occurrence of an event of Force Majeure, (a) the Sites Authority shall be excused from its obligations under this Contract for the period during which it is unable to comply with such obligations as a result of such event of Force Majeure, and (b) the Participants and the Acquirer shall be excused from their obligations under this Contract for the period during which they are unable to comply with such obligations as a result of the event of Force Majeure, other than the payment of Project Costs described in Section 6 of this Contract, which obligations are not subject to reduction or abatement.

4.10.2 Any excuse of obligations in accordance with this Section 4.10 is subject to the proviso that, upon obtaining knowledge of an event of Force Majeure, such Party: (a) promptly notifies the Sites Authority and/or the other Party or Parties of the event of Force Majeure; (b) provides reasonable details and updates relating to such event of Force Majeure; and (c) implements mitigation measures to the extent commercially reasonable.

#### 4.11 Shortages and Water Quality

4.11.1 If for any reason other than those described in Section 4.10 there is a reduction in the Sites Water diversions or releases or other circumstances, which, notwithstanding preventive or remedial measures that the Sites Authority may or may not take in its sole discretion, threatens a permanent shortage in the supply of Sites Water to be made available to the Storage Partners, the Sites Authority will adjust the storage, diversion and release of Sites Water in accordance with the relevant Capacity Interest and Share.

4.11.2 Neither the Sites Authority nor any of its directors, officers, agents, or employees shall be liable for any damage, direct or indirect, arising from the shortages in the amount of Water to be made available to the Participants under this Contract caused by non-availability of Water to the Sites Authority under the Sites Water Right (as applicable to Sites Water), Applicable Law, Governmental Approval or caused by drought, or any other cause beyond the Sites Authority's control.

4.11.3 The Sites Authority makes no representation, warranty or guarantee of the quality of Water delivered under this Contract.

#### 4.12 Governance

4.12.1 The Parties agree that:

- (a) the Sites Authority Board has reserved certain powers, as described in the JPA Agreement;
- (b) the Reservoir Management Board has been delegated exclusive decision-making authority for specified activities, as described in the Sites Authority Bylaws, which shall not be amended without approval of the Reservoir Management Board;
- (c) the Sites Authority and the Reservoir Management Board have shared decision-making authority for specified activities, as described in the Sites Authority Bylaws;
- (d) the Sites Authority Bylaws and the JPA Agreement set out voting procedures for amendment thereof that shall be complied with by all Parties; and

- (e) any Participant shall have the option to serve as an Associate Member of the Sites Authority Board, subject to the rights and limitations set forth in the Sites Authority Bylaws.

#### 4.13 Compliance with Partner Agreements

In performing its obligations under this Contract, the Sites Authority shall comply with the terms of the Partner Agreements.

#### 4.14 Capital Improvement Plan

4.14.1 Every year starting at the Completion, the Sites Authority shall generate a five year forecast for all capital improvements including capital cost estimates for each improvement, any operating cost changes associated with the capital expenditure, and project funding prioritization for the Project Facilities subject to approval by the Reservoir Management Board and the Sites Authority (as applicable) as described in the Sites Authority Bylaws (“**Capital Improvement Plan**”). The approved Capital Improvement Plan shall be reflected in the annual budget. The Sites Authority shall make good faith efforts to include any activities that the Sites Authority reasonably anticipates would require amendment to the adopted annual budget for Project Costs for each Fiscal Year.

4.14.2 The Parties agree that additional activities, work or services may be required that were not contemplated in the Capital Improvement Plan. The Parties therefore agree to use best efforts and take reasonable actions to address and resolve any such increased or additional activities, work or services, and associated expenses.

### **SECTION 5. FINANCING OF THE PROJECT**

#### 5.1 The Sites Authority Financing of the Project

The Sites Authority:

5.1.1 agrees to provide Sites Financing for Fixed Project Costs, provided that each Financing Participant and the Acquirer (as applicable) shall pay Sites Financing Costs relating to such Sites Financing allocable to the Participant in accordance with Section 6.4;

5.1.2 may incur Project Obligations from time to time for the purpose of financing or refinancing the Fixed Project Costs on an interim or permanent basis; and

5.1.3 in incurring Project Obligations, will use commercially reasonable efforts to obtain cost effective financing for the Fixed Project Costs on reasonable terms and conditions consistent with this Contract and with the approval of the Reservoir Management Board.

#### 5.2 Notice of Expected Incurrence of Sites Financing

5.2.1 The Sites Authority will provide written notice to the Participants [and the Acquirer (as applicable)] substantially in the form of Appendix 4 of the expected incurrence of any Sites Financing at least 150, but not more than 180 days prior to (i) the expected date of the incurrence of such Sites Financing, or (ii) if the Project Obligations are expected to be sold in the public capital markets, the Business Day prior to the scheduled date on which the offering document

(which may be a preliminary offering document) relating to such Sites Financing is anticipated to be made available to potential investors, that includes:

- (a) the anticipated date of the incurrence by the Sites Authority of such Sites Financing (a **“Proposed Sites Financing Incurrence Date”**);
- (b) a description of the proposed financing structure, expected method of sale, expected term, pro-forma cash flows and each Participant’s estimated share of the Fixed Project Costs to be financed or refinanced from the proceeds of such proposed Sites Financing;
- (c) each Participant’s estimated annual Sites Financing Costs relating to the proposed Sites Financing; and
- (d) the amount that the Participant would be required to deposit with the Sites Authority if the Participant elects to self-fund such costs in accordance with Sections 5.4 and 5.5,

(each such notice constituting a **“Sites Financing Incurrence Notice”**).

### 5.3 Provisions Applicable to Financing Participants

5.3.1 This Section 5.3 shall be applicable to each Financing Participant participating in a Sites Financing.

5.3.2 No later than 30 days following a request by the Sites Authority, each Financing Participant and the Acquirer, as applicable, shall:

- (a) provide to the Sites Authority such information and disclosure as may be reasonably required by the Sites Authority in connection with the incurrence of a Sites Financing;
- (b) provide to the Sites Authority such information regarding that Participant as the Sites Authority may reasonably require in order to comply with (i) any reporting obligations under any Sites Financing; or (ii) the obligations of the Sites Authority under any continuing disclosure undertaking entered into in connection with the incurrence of a Sites Financing;
- (c) deliver to the Sites Authority all certificates and Participant and Acquirer counsel opinions reasonably required by the Sites Authority or bond counsel to the Sites Authority in connection with the sale and closing of such Sites Financing; and
- (d) execute and deliver to the Sites Authority such additional documents, including, any necessary further assurances in relation to the incurrence of any Sites Financing as the Sites Authority may reasonably request, provided that all such documents will be provided in accordance with Applicable Law.

### 5.4 Participant Self-Funding Election

5.4.1 Each Participant may elect to self-fund all or a portion of the Participant's share of Fixed Project Costs proposed by the Sites Authority to be financed or refinanced in accordance with a Sites Financing Incurrence Notice.

5.4.2 Such election shall be made by delivering written notice to the Sites Authority, substantially in the form attached as Appendix 3 (each, a "**Self-Funding Notice**"), on or before the 90<sup>th</sup> day prior to (i) the anticipated date of the applicable Sites Financing Incurrence Date or (ii) if the Project Obligations are expected to be sold in the public capital markets, the Business Day prior to the scheduled date on which the offering document relating to such Sites Financing is anticipated to be made available to potential investors, as applicable (a "**Self-Funding Election Date**"), setting forth the amount of Fixed Project Costs that the Participant proposes to finance or refinance from the proposed Sites Financing and any share of Fixed Project Costs that the Participant proposes to self-fund.

5.4.3 A Participant making an election in a Self-Funding Notice to self-fund only a portion of the applicable Fixed Project Costs assignable to that Participant with respect to Sites Financing shall be treated both as a Financing Participant and a Self-Funding Participant under this Contract with respect to such Sites Financing.

5.4.4 A Participant shall not be permitted to withdraw, change or otherwise terminate a Self-Funding Notice with respect to such self-funded portion of a Sites Financing after the applicable Self-Funding Election Date; provided that a Participant may increase its self-funded portion of a Sites Financing after the Self-Funding Election Date if the financing structure, terms, or conditions set forth in the good faith estimates accompanying the resolution of the Sites Authority authorizing such financing deviate materially from those provided in the Financing Incurrence Notice; provided further that an election of a Participant to increase its self-funded portion pursuant to this Section 5.4.4 must be made within 10 days after the consideration of the resolution of the Sites Authority authorizing such financing.

5.4.5 The execution of a master agreement by the Sites Authority in connection with the United States Environmental Protection Agency's Water Infrastructure Finance and Innovation Act loan program, any other State, federal or other public agency loan or any agreement relating to short-term or interim borrowing, including revolving credit agreements, lines of credit and commercial paper notes, shall constitute a Sites Financing for purposes of this Section 5, regardless of when funds are drawn thereunder.

## 5.5 Provisions Applicable to Self-Funding Participants

5.5.1 This Section 5.5 shall apply to each Self-Funding Participant to the extent such Participant complies with such Participant's obligation to pay the Fixed Project Costs identified in the respective Participant's Self-Funding Notice through Self-Funding Participant Cash Payments.

5.5.2 Each Self-Funding Participant shall deposit cash with the Sites Authority in the amount specified in the Self-Funding Notice provided by the Self-Funding Participant to the Sites Authority under Section 5.4.2 (each, a "**Self-Funding Participant Cash Payment**"), by the date that is 60 days prior to (i) the applicable Sites Financing Incurrence Date, or (ii) if the Project Obligations are to be sold in the public capital markets, the Business Day prior to the scheduled date on which the offering document (which may be a preliminary offering document) relating to such Sites Financing is anticipated to be made available to potential investors (the "**Self-Funding Participant Cash Payment Date**"); provided that if the Self-Funding Cash Payment is not

received by the Self-Funding Participant Cash Payment Date, the Participant will be provided with a grace period of 30 days after the Self-Funding Participant Cash Payment Date for the Participant to make such Self-Funding Participant Cash Payment. If payment of the Self-Funding Participant Cash Payment is made within such grace period, such Participant will be treated as a Self-Funding Participant.

5.5.3 The Sites Authority will deposit each Self-Funding Participant Cash Payment in an individual account or accounts for each Self-Funding Participant established and held by the Sites Authority separate and apart from the Sites Authority's other funds and accounts, and shall apply such amount, including the investment earnings thereon, to pay such Self-Funding Participant's share of the cost of the applicable Fixed Project Costs in accordance with Section 6.5 or to pay costs of any refinancing, as applicable. Such accounts and any investments shall be held in compliance with Applicable Law.

5.5.4 In the event that the Self-Funding Participant Cash Payment is not received prior to the expiration of the grace period described in Section 5.5.2, such Participant shall constitute a Financing Participant with respect to such Sites Financing and be obligated to pay Sites Financing Costs relating to such Sites Financing.

5.5.5 To the extent a Self-Funding Participant meets its obligation under this Contract to pay Fixed Project Costs through Self-Funding Participant Cash Payments, such Participant hereby represents, warrants, and covenants that such Self-Funding Participant Cash Payments shall and will be delivered to the Sites Authority free and clear of any prior lien.

5.5.6 At the time of disbursement of any proceeds of Project Obligations there will be a disbursement of proceeds from the accounts holding the Self-Funding Participant Cash Payments made by Self-Funding Participants, and in each instance, the disbursement of proceeds of Project Obligations and the disbursement of proceeds from the accounts holding the Self-Funding Participant Cash Payments made by the Self-Funding Participants shall be made proportionately based on each such Participant's Capacity Interest and Share. In the event that a Participant is both a Financing Participant and a Self-Funding Participant, the allocation of the proceeds of Project Obligations and the disbursement from the account holding such Participant's Self-Funding Participant Cash Payment to the payment of such Participant's share of Fixed Project Costs, will be made in proportion to such Participant's Self-Funding Participant Cash Payment and the Participant Fixed Project Costs to be financed from the proposed Sites Financing identified in such Participant's Self-Funding Notice relative to the Total Participant Obligation set forth in such Participant's Self-Funding Notice; provided that if a Participant that is both a Financing Participant and a Self-Funding Participant elects to increase its self-funded portion of Fixed Project Costs after the Self-Funding Election Date pursuant to Section 5.4.4, the amounts used to determine the allocation between the proceeds of Project Obligations and disbursements from the account holding such Participant's Self-Funding Participant Cash Payment will be adjusted to take into account the increase to such Participant's self-funded portion of Fixed Project Costs.

5.5.7 If, following (i) Completion or (ii) to the extent a Participant elects to self-fund its share of Fixed Project Costs of additional Project Facilities following Completion, the completion of the additional Project Facilities funded, in part, with a Sites Financing that such Participant elected not to participate in, there is any portion of any Self-Funding Participant Cash Payments (and investment earnings thereon) remaining unspent by the Sites Authority, then such unspent Self-Funding Participant Cash Payments (including investment earnings thereon) shall be returned by the Sites Authority to the applicable Self-Funding Participants, or, at the written

direction of each such Self-Funding Participant shall be paid to the Sites Authority and credited to future Fixed Project Costs of the applicable Self-Funding Participant under this Contract.

## **SECTION 6. PAYMENT OF PROJECT COSTS**

### **6.1 Overview of Project Costs**

6.1.1 Subject to Section 6.1.2, each Participant shall be required to pay Project Costs as follows:

- (a) Financing Obligations as set out in Section 6.4 for Financing Participants;
- (b) Fixed Project Costs, calculated in accordance with Section 6.5;
- (c) Fixed O&M Costs, calculated in accordance with Section 6.6; and
- (d) Variable O&M Costs, calculated in accordance with Section 6.7.

6.1.2 The Acquirer shall be required to pay all Project Costs to the Sites Authority under this Section 6 on behalf of the SWP Participants provided that the Acquirer's financial obligations under this Contract are limited to funding provided to it by the SWP Participants.

6.1.3 Notwithstanding Section 6.1.2, to the extent any amounts paid to the Sites Authority by the Acquirer are insufficient to cover the Project Costs required to be paid by the SWP Participants, the SWP Participants shall pay to the Sites Authority all remaining Project Costs as described in this Contract.

### **6.2 Estimated Charges**

6.2.1 On or before March 1 of each Fiscal Year or such other date agreed in the Sites Authority Policies, the Sites Authority shall provide (i) each Participant, and (ii) the Acquirer and the SWP Participants, in the case of the SWP Participants ((i) and (ii) together, to be referred to as the "**Billing Party(ies)**") with an estimated statement of anticipated Project Costs required to be paid by each Participant or the Acquirer (as applicable) in (i) the following Fiscal Year and (ii) under this Contract, which statement may be used by Participants and the Acquirer for budgeting purposes.

6.2.2 In accordance with the timing required by the JPA Agreement, the Reservoir Management Board shall prepare and recommend, and the Sites Authority Board will adopt a budget for Project Costs for the following Fiscal Year. Such budget shall include any costs associated with the Capital Improvement Plan.

### **6.3 Billing Statements**

6.3.1 Within 30 days after the Effective Date and thereafter, on or before [January][1] and [July][1] of each Fiscal Year or such other dates as may be provided in the Sites Authority Policies, the Sites Authority will provide each Billing Party with a billing statement ("**Billing Statement**") setting forth:



- (a) from the Effective Date until the termination of this Contract, for Financing Participants, for the Participant's share of the Participant's Financing Obligations due for the applicable six-month period, calculated in accordance with Section 6.4;
- (b) from the Effective Date until the termination of this Contract, for Self-Funding Participants, for the Participant's share of Fixed Project Costs due for the applicable six-month period, calculated in accordance with Section 6.5; provided, to the extent all or a portion of such costs have been self-funded with a Self-Funding Cash Payment, then such amounts shall be deducted from the applicable account established for the respective Self-Funding Participants in accordance with Section 6.8.1(b);
- (c) from twelve months prior to completion of construction of the Project until the termination of this Contract, for all Participants, the Participant's share of Fixed O&M Costs, due for the applicable six-month period calculated in accordance with Section 6.6; and
- (d) from six months prior to completion of construction of the Project until the termination of this Contract, for all Participants, the Participant's share of Variable O&M Costs due for the applicable six-month period calculated in accordance with Section 6.7.

6.3.2 Project Costs billed to each Billing Party and included on any Billing Statement shall be billed as follows:

- (a) Fixed O&M Costs, Financing Obligations and Fixed Project Costs shall be billed one-year in advance; and
- (b) Variable O&M Costs shall be billed for the applicable six-month period commencing on the succeeding [January][1] or [July][1].

6.3.3 Each Billing Statement shall:

- (a) be consistent with the approved Sites Authority budget;
- (b) be based upon Project Costs incurred by the Sites Authority during the current Fiscal Year and planned Project Costs for the upcoming Fiscal Year;
- (c) take into account applicable credits received by the Sites Authority and estimated investment earnings on moneys related to the Project held by the Sites Authority, provided that amounts paid to the Sites Authority for Fixed Project Costs shall not be invested at a yield or in any manner which would result in interest on any Project Obligations being includable in gross income for federal income tax purposes; and
- (d) be accompanied by reasonable supporting documentation showing the basis of the Project Costs shown on the Billing Statement.

#### 6.4 Financing Obligations

Each Financing Participant's Financing Obligations shall be determined in accordance with the following formula:

$$FO = [BFO \times BFPP] + [DFO \times DFPP]$$

Where:

FO = Financing Obligations

BFO = Financing Obligations allocable to Base Facilities

BFPP = Base Facility Financing Participation Percentage

DFO = Financing Obligations allocable to Downstream Facilities

DFPP = Downstream Facility Financing Participation Percentage

#### 6.5 Fixed Project Costs

Each Participant's Fixed Project Costs, shall be determined in accordance with the following formula:

$$FPC = [BFC \times BCI] + [DFC \times DCS]$$

Where:

FPC = Participant Fixed Project Costs

BFC = Fixed Project Costs allocable to Base Facilities

BCI = Each Participant's Base Facilities Capacity Interest

DFC = Fixed Project Costs allocable to Downstream Facilities

DCS = Each Participant's Downstream Facilities Capacity Share,

in any case to the extent that such Fixed Project Costs are not also included in such Participant's Financing Obligations.

#### 6.6 Fixed O&M Costs

Each Participant's Fixed O&M Costs shall be determined in accordance with the following formula:

$$FOMC = [BFOMC \times BCI] + [DFOMC \times DCS]$$

Where:

FOMC = Fixed O&M Costs

BFOMC = Fixed O&M Costs allocable to Base Facilities

BCI = Each Participant's Base Facilities Capacity Interest

DFOMC = Fixed O&M Costs allocable to Downstream Facilities



DCS = Each Participant's Downstream Facilities Capacity Share

## 6.7 Variable O&M Costs

Each Participant's Variable O&M Costs shall be determined in accordance with the following formula:

$$\text{VOMC} = [(PWP / TWP) \times \text{BPVOMC}] + [(PWR / TWR) \times \text{BRVOMC}] + [(PWRD / TWRD) \times \text{DVOMC}]$$

Where:

VOMC = Variable O&M Costs

PWP = Water conveyed into Sites Owned ~~Base~~ Facilities attributable to a Participant

TWP = Total Water conveyed into Sites Owned Base Facilities

BPVOMC = Variable O&M Costs allocable to Water conveyed into Base Facilities

PWR = Water released from Sites Owned Base Facilities attributable to a Participant

TWR = Total Water released from Sites Owned Base Facilities

BRVOMC = Variable O&M Costs allocable to Water released from Base Facilities

PWRD = Water released from Sites Owned Base Facilities that flows into Downstream Facilities attributable to a Participant

TWRD = Total Water released from Sites Owned Base Facilities that flows into Downstream Facilities

DVOMC = Variable O&M Costs allocable to Downstream Facilities

## 6.8 Due Date and Method of Payments by Participants

6.8.1 Within 30 days after receipt of each Billing Statement:

- (a) each Financing Participant, and the Acquirer in the case of the SWP Participants, shall pay the charges for Project Costs shown on the Billing Statement; and
- (b) each Self-Funding Participant, and the Acquirer in the case of the SWP Participants, shall pay the charges for Project Costs shown on the Billing Statement (which shall reflect such Self-Funding Participant's Self-Funding Participant Cash Payments). The Sites Authority shall withdraw from Self-Funding Participant Cash Payments on deposit in the account established for such Self-Funding Participant the Fixed Project Costs that such Self-Funding Participant has elected to self-fund in accordance with the applicable Self-Funding Election.

6.8.2 Each Participant, and the Acquirer in the case of the SWP Participants, shall make payments under this Contract whether or not the Project is completed or operable and notwithstanding the suspension, interruption, interference, reduction or curtailment of operation of the Project or of water service in whole or in part for any reason.

6.8.3 Payments under this Contract by each Participant, and the Acquirer in the case of the SWP Participants, or withdrawals from any account established for a Self-Funding Participant are not subject to any reduction, whether offset or otherwise, and are not conditioned upon performance by the Sites Authority or any other Participant under this Contract or any other agreement.

6.8.4 The obligation of each Participant, and the Acquirer on behalf of the SWP Participants (but only from funds received from the respective SWP Participants), to make payments under this Contract (including Financing Obligations with respect to each Financing Participant) is absolute, irrevocable and unconditional irrespective of: (i) any change in the time, manner or place of payment of its obligations under this Contract (including the terms in Section 6.8.1 of this Contract) or any other amendment or waiver of or any consent to departure from any of the terms of this Contract or the Project Obligations; (ii) any release or amendment or waiver of, or consent to departure from, any State and Federal Contract, (iii) any taking, exchange, sale or release of any collateral, for any Project Obligation or any manner of application of collateral, or proceeds thereof, to any Project Obligation; (iv) any change, restructuring or termination of the existence of the Sites Authority or any Participant; (v) any present or future law, regulation or order of any jurisdiction or of any agency thereof purporting to increase, reduce, amend, restructure or otherwise affect any term of this Contract or the Project Obligations; and (vi) any other setoff, defense or counterclaim whatsoever with respect to this Contract, the Project Obligations or the transactions contemplated thereby which may constitute a legal or equitable defense available to, or discharge of, the Sites Authority or any Participant.

6.8.5 Subject to Section 10.3.6, each Participant and the Acquirer shall:

- (a) not be liable under this Contract for the obligations of any other Participant; and
- (b) be solely responsible and liable for performance of its obligations under this Contract.

6.8.6 The obligation of each Participant, and the Acquirer in the case of the SWP Participants, to make payments under this Contract is a several obligation and not a joint obligation with those of the other Participants; provided that the Acquirer's obligation to make payments on behalf of the SWP Participants is only to the extent the Acquirer has received funds from the SWP Participants.

## 6.9 Interest on Late Payments

6.9.1 Any amount of the Project Costs billed in a Fiscal Year by the Sites Authority under this Section 6, which remains unpaid 30 days after the due date in Section 6.8.1, as applicable, shall bear interest from such day at the per annum interest rate equal to the then-current rate on the LAIF until paid.

6.9.2 Interest paid under Section 6.9.1 by a Financing Participant shall not change the Financing Participation Percentage of such Financing Participant, but shall be applied to the

payment of Sites Financing Costs of all Financing Participants other than the Financing Participant paying such interest in accordance with the applicable Financing Agreement.

#### 6.10 Annual True-Up

6.10.1 No later than 180 days after the end of each Fiscal Year, the Sites Authority will evaluate the Project Costs paid by or deducted from the deposit made by each Participant, or the Acquirer in the case of the SWP Participants, under this Contract against the actual Project Costs for the Fiscal Year and will credit any overpayment by any Participant, and the Acquirer in the case of the SWP Participants, to such Participant's or the Acquirer's payment for the following Fiscal Year; provided, however, that to the extent any Project Costs have not been finally determined within 180 days after the end of a Fiscal Year, following the final determination of such Project Costs, the Sites Authority will promptly, and in no case later than 60 days after finalization of Project Costs, credit any overpayment by any Participant, and the Acquirer in the case of the SWP Participants, to such Participant's and the Acquirer's payment for the following Fiscal Year.

#### 6.11 Supplemental Billing

6.11.1 Billing Statements sent to each Billing Party will be based on the factors identified in Section 6.3. In the event that the amounts paid by the Participants, and the Acquirer in the case of the SWP Participants, are insufficient to pay the actual Project Costs, as applicable, for the applicable Fiscal Year, the Sites Authority may issue supplemental Billing Statements to the Billing Parties apportioned in accordance with the terms in this Section 6, and such amounts will be due and payable by the Participants, or the Acquirer in the case of the SWP Participants, within 90 days after receipt of such Billing Statement; provided, however, that the Sites Authority shall not issue supplemental Billing Statements for any charges 3 years or more after the underlying costs for such supplemental Billing Statements were incurred by the Sites Authority, unless the Sites Authority did not know, and would not have known through exercise of reasonable care, that such underlying costs would require supplemental Billing Statements during such 3 year period.

6.11.2 If the Sites Authority becomes aware of circumstances which may result in the need to issue supplemental Billing Statements to the Billing Parties, the Sites Authority will notify the Billing Parties of such circumstances as promptly as reasonably possible.

#### 6.12 Contest of Accuracy of Charges

If a Participant or the Acquirer questions or disputes the correctness of any Billing Statement by the Sites Authority, such Participant and the Acquirer on behalf of the SWP Participants shall pay the Sites Authority the amount claimed when due and shall within 30 days after receipt of such Billing Statement request an explanation from the Sites Authority. If the bill is determined to be incorrect, the Sites Authority will adjust the bill to such Participant or the Acquirer, as applicable, in the next applicable Billing Statement. If the Sites Authority and the Participant or the Acquirer, as applicable, fail to agree on the correctness of a bill within 30 days after the Participant or the Acquirer, as applicable, has requested an explanation, the Sites Authority and such Participant or the Acquirer shall use the dispute resolution process in accordance with Section 12.

### **SECTION 7. SITES AUTHORITY FINANCIAL COVENANTS**

7.1.1 The Sites Authority will keep appropriate accounting records in which complete and correct entries shall be made of all transactions relating to the Project, which records shall be

available for inspection by each Participant and the Acquirer, upon at least 2 Business Days written notice, at reasonable hours and under reasonable conditions.

7.1.2 The Sites Authority will prepare within 270 days after the close of each Fiscal Year (commencing with the Fiscal Year ending [December 31, 2025]) financial statements of the Sites Authority for the preceding Fiscal Year prepared by a recognized independent auditor in accordance with Generally Accepted Accounting Principles, together with an accountant's report on such financial statements. The Sites Authority will promptly furnish a copy of such accountant's report to each Participant and the Acquirer. If requested by Participants holding at least [%] of the Base Facilities Capacity Interest, the independent auditor will also audit annual invoices for that fiscal year.

7.1.3 The Sites Authority will faithfully observe and perform all the agreements, conditions, covenants and terms contained in the Master Resolution required to be observed and performed by the Sites Authority and shall apply amounts received from the Participants and the Acquirer on behalf of the SWP Participants in accordance with this Contract in accordance with the Master Resolution.

7.1.4 The Sites Authority shall maintain all records related to the Project for a minimum period of 10 years after Completion, or, in the case of records related to any Project Obligations, for a period as required by the terms of such Project Obligations.

## SECTION 8. LEASING OR SALE OF CAPACITY INTEREST AND SHARE AND SALES OF WATER

[Note: ~~It is expected that similar provisions will be included in~~ The terms of State and Federal parties obligations and rights to sell or lease capacity interest and sales of water are under discussion in the negotiations of the State and Federal ~~Contracts as it relates to the State and Federal parties obligations to sell, lease or exchange~~ Agreements. Note also that the JPA is continuing to consider and incorporate feedback with respect to use of downstream capacity / temporary use and revisions will be forthcoming.]

### 8.1 Lease ~~or Sale~~ of Capacity Interest and Share by Participants

8.1.1 Participants may: ~~(i) lease Capacity Interest and Share; or (ii) sell all or a portion of their Base Facilities Capacity Interest, with~~ to other Storage Partners and ~~with~~ to other entities subject to the following conditions:

- (a) each Participant may negotiate in its discretion the commercial terms of the lease ~~or sale~~ of its Capacity Interest and Share ("Lease Negotiated Terms") provided that:
  - (i) the Lease Negotiated Terms must not negatively impact other Participants' rights to store or convey Water in accordance with this Contract, or the rights of Storage Partners to store or convey Water in accordance with the State and Federal Contracts (as applicable);
  - (ii) any ~~(i) lease of Capacity Interest and Share; or (ii) sale of Base Facilities Capacity Interest,~~ must be consistent with the Sites Water Right, Governmental Approvals and Applicable Law;

(iii) subject to ~~Sections~~[Section 8.1.2 and 8.1.3](#), a ~~(i) lease of Capacity Interest and Share; or (ii) sale of the Base Facilities Capacity Interest~~ shall not impact or limit a Participant's rights or obligations to the Sites Authority under this Contract and each Participant shall remain responsible for all of its obligations to the Sites Authority under this Contract;

(iv) no ~~(i) lease of Capacity Interest and Share; or (ii) sale of a Participant's Base Facilities Capacity Interest~~ can cause or be construed to cause a reduction in any Project Obligation bond credit rating or put the tax exempt borrowing status of the Sites Authority in violation of the Internal Revenue Code of 1986, as amended, as reasonably determined by the Sites Authority;

(v) no agreement for a lease of a Participant's Capacity Interest and Share shall be for a term of longer than 10 years, nor shall it provide for any renewal of a term in a manner that would result in a lease having an effective term in excess of 10 years; provided, however, that this limitation shall not apply to Colusa County's lease of storage for "creek water", as that term is described and used in the Colusa County / Sites Authority MOU, ~~nor shall any such lease be subject to the terms and conditions of Section 8.2.1(a)(vi) below~~; and provided further that if an agreement for a lease of a Participant's Base Facilities Capacity Interest is for a term of longer than 10 years, such agreement shall be subject to the same terms and conditions of ~~this Section 8.18.2~~ [as are applicable to the sale of Base Facilities Capacity Interest](#) ~~provided that any lease of a Downstream Facilities Capacity Share longer than 10 years shall not be permitted~~. If any lease of Base Facilities Capacity Interest is to a Participant with a Downstream Facilities Capacity Share, the Sites Water may be conveyed on a first priority basis up to the Downstream Facilities Capacity Share. Should the Participant wish to convey more Sites Water ~~than its Downstream Facilities Capacity Share allows~~, this would be on a second priority basis and would incur wheeling costs [on a per Acre-foot basis] [determined](#) as described in the Operations Plan. Leases to non-Participants would be provided access to Downstream Facilities on a second priority basis and ~~would incur a wheeling costs fee~~ [on a per Acre-foot basis] [determined](#) as described in the Operations Plan, [which wheeling fee shall be credited to those holders of Downstream Facilities Capacity Share who provided the Downstream Facilities capacity](#). **[Note: The 10 year restriction on leases above shall also not apply to leases by Reclamation. This will be reflected in the Reclamation Partnership Agreement];**

(vi) ~~subject to Section 8.2.3~~, prior to any ~~(i) sale by a Participant of Base Facilities Capacity Interest; or (ii) lease by a Participant of Base Facilities Capacity Interest and Downstream Facilities Capacity Share~~, the ~~selling or~~ leasing Participant shall provide to the Sites Authority such information and documents as reasonably requested by the Sites Authority, except for any commercial terms which may be held confidential in accordance with Applicable Law; and

[\(b\) any lease of Base Facilities Capacity Interest and Downstream Facilities Capacity Share \(as applicable\) shall be confirmed with staff of the Sites Authority verifying that Project operations and Water accounting may be maintained and any lease of Capacity Interest and Share by or to any SWP Participants shall also be coordinated with the Acquirer;](#)

[\(c\) any lease agreement for Capacity Interest and Share must acknowledge that conveyance constraints will limit withdrawals from the Project Facilities from time to time, and must specify how Project Facilities losses will be accounted for; and such provisions shall be consistent with the Sites Operations Plan and any other requirements established by the Reservoir Management Board and the Sites Authority;](#)

- (d) as a condition of any Participant leasing all or a portion of its Capacity Interest and Share, the Participant must first pay any amounts due to the Sites Authority under this Contract;
- (e) where a Participant proposes to lease Base Facilities Capacity Interest and Downstream Facilities Capacity Share to a non-Storage Partner, and receives a bona fide offer for the same, the leasing Participant must first provide written notice of such offer (“Lease Offer Notice”) to the other non-selling Storage Partners holding a Capacity Interest and Share in the same Project Facilities (the Base Facilities or the Downstream Facilities, as applicable) including a term sheet with all material terms of the proposed lease, including, the duration of the lease. The Storage Partners shall have a “right of first refusal” with respect to the lease of such Capacity Interest and Share on the terms provided in the Lease Offer Notice. Each Storage Partner shall respond to such terms in writing within 60 days of receipt of the Lease Offer Notice or such longer time proposed by the leasing Participant, and a failure to so respond shall be deemed a waiver of such Storage Partner’s right to first refusal with regard to the transaction set forth in the Lease Offer Notice. If the terms presented to the Storage Partners in the Lease Offer Notice are changed in any material way following provision of the Lease Offer Notice to the non-selling Storage Partners, the leasing Participant will provide a revised Lease Offer Notice and the non-leasing Storage Partners shall again have a “right of first refusal” on the new terms in the revised Lease Offer Notice. In the event that more than one non-selling Storage Partners timely notifies the leasing Participant of such non-leasing Storage Partner’s interest in leasing the Capacity Interest and Share upon the terms set forth in the Lease Offer Notice, the Capacity Interest and Share shall be apportioned *pro rata* based on the non-leasing Storage Partner’s applicable Capacity Interest and Share in each of the Base Facilities and Downstream Facilities unless the non-selling Storage Partners agree otherwise. While the Sites Authority may act in an administrative role with respect to such leases, the Sites Authority will not have any authority to set prices or terms except as set forth in Section 8.1.1(a); and
- (f) the Participant must provide notice to the Sites Authority of the final lease within 5 days of execution and shall ensure that appropriate communication protocols are in place so that the Sites Authority is able to convey water on behalf of the lessee

8.1.2 In the event that a Participant leases its Base Facilities Capacity Interest and Downstream Facilities Capacity Share as described in Section 8.1.1(a), such leasing Participant shall remain signatory to its Contract with the Authority and shall continue to be liable and responsible for all of its obligations under this Contract, and shall not be relieved of any such obligations as a result of such lease or sharing.

8.1.3 The Participant leasing Capacity Interest and Share shall receive Sites Authority and Reservoir Management Board approvals, as necessary, prior to executing any agreements for lease of Capacity Interest and Share requiring such approvals under this Contract. The provisions for lease specified in this Section 8.1 constitute all provisions necessary for the Sites Authority Board and Reservoir Management Board approving a lease, and such approvals shall not be unreasonably withheld, conditioned or delayed.

## 8.2 Sale of Capacity Interest and Share by Participants



8.2.1 Participants may sell all or a portion of their Base Facilities Capacity Interest to other Storage Partners and to other entities subject to the following conditions:

- (a) each Participant may negotiate in its discretion the commercial terms of the sale of its Base Facilities Capacity Interest (“Sale Negotiated Terms”) provided that:
  - (i) the Sale Negotiated Terms must not negatively impact other Participants’ rights to store or convey Water in accordance with this Contract, or the rights of Storage Partners to store or convey Water in accordance with the State and Federal Contracts (as applicable);
  - (ii) any sale of Base Facilities Capacity Interest must be consistent with the Sites Water Right, Governmental Approvals and Applicable Law;
  - (iii) subject to Section 8.2.2, a sale of the Base Facilities Capacity Interest shall not impact or limit a Participant’s rights or obligations to the Sites Authority under this Contract and each Participant shall remain responsible for all of its obligations to the Sites Authority under this Contract;
  - (iv) no sale of a Participant’s Base Facilities Capacity Interest can cause or be construed to cause a reduction in any Project Obligation bond credit rating or put the tax exempt borrowing status of the Sites Authority in violation of the Internal Revenue Code of 1986, as amended, as reasonably determined by the Sites Authority;
  - (v) subject to Section 8.2.3, prior to any sale by a Participant of Base Facilities Capacity Interest, the selling Participant shall provide to the Sites Authority such information and documents as reasonably requested by the Sites Authority, except for any commercial terms which may be held confidential in accordance with Applicable Law; and
  - (vi) ~~(vii)~~ any sale must be approved by the Reservoir Management Board and the Sites Authority (as applicable) consistent with this Section ~~8.1.1(a)~~ 8.2.1(a) and the Sites Authority Bylaws, such approval not to be unreasonably withheld or delayed by the Sites Authority;
- (b) any ~~lease or~~ sale of Base Facilities Capacity Interest ~~and Downstream Facilities Capacity Share (as applicable)~~ shall be confirmed with staff of the Sites Authority including (i) verifying that Project operations and Water accounting may be maintained; and ~~any lease or sale of~~ (ii) providing notice of the proposed buyers credit rating. Any sale of Base Facilities Capacity Interest by or to any SWP Participants shall also be coordinated with the Acquirer; Any sale to a party with a lower individual credit rating than the proposed seller that represents 5% or greater of all Base Facilities Capacity Interest will be subject to Sites Authority approval [Note: This is a currently a condition of WIFIA funding];
- (c) any sale ~~or lease~~ agreement for Base Facilities Capacity Interest ~~and Share~~ must acknowledge that conveyance constraints will limit withdrawals from the Project Facilities from time to time, and must specify how Project Facilities losses will be accounted for; and such provisions shall be consistent with the Sites Operations Plan and any other requirements established by the Reservoir Management Board and the Sites Authority;

- (d) as a condition of any Participant selling ~~or leasing~~ all or a portion of its Base Facilities Capacity Interest ~~and Share~~, and ~~in the case of a sale~~, of the Sites Authority signing the Contract with the purchaser of the Base Facilities Capacity Interest ~~and Share~~, the Participant must first pay any amounts due to the Sites Authority under this Contract; ~~and~~
- (e) where a Participant proposes to ~~(i) sell Base Facilities Capacity Interest; or (ii) lease Base Facilities Capacity Interest and Downstream Facilities Capacity Share~~ to a non-Storage Partner, and receives a bona fide offer for the same, the selling Participant must first provide written notice of such offer ("Sale Offer Notice") to the other ~~non-selling~~ Storage Partners ~~holding a Capacity Interest and Share in the same Project Facilities (the Base Facilities or the Downstream Facilities, as applicable)~~ including a term sheet with all material terms of the proposed sale ~~or lease, including, for a proposed lease, the duration of the lease~~. The Storage Partners shall have a "right of first refusal" with respect to the sale ~~or lease~~ of such Base Facilities Capacity Interest ~~and Share~~ on the terms provided in the Sale Offer Notice. Each Storage Partner shall respond to such terms in writing within 60 days of receipt of the Sale Offer Letter Notice or such longer time proposed by the selling Participant, and a failure to so respond shall be deemed a waiver of such Storage Partner's right to first refusal with regard to the transaction set forth in the Sale Offer Notice. If the terms presented to the Storage Partners in the Sale Offer Notice are changed in any material way following provision of the Sale Offer Notice to the non-selling Storage Partners, the selling Participant will provide a revised Sale Offer Notice and the non-selling Storage Partners shall again have a "right of first refusal" on the new terms in the revised Sale Offer Notice. In the event that more than one non-selling Storage Partners timely notifies the Selling Participant of such non-selling Storage Partner's interest in purchasing ~~or leasing~~ the Base Facilities Capacity Interest ~~and Share~~ upon the terms set forth in the Sale Offer Notice, the Base Facilities Capacity Interest ~~and Share~~ shall be apportioned *pro rata* based on the non-selling Storage Partner's applicable Base Facilities Capacity Interest ~~and Share in each of the Base Facilities and Downstream Facilities~~ unless the non-selling Storage Partners agree otherwise. While the Sites Authority may act in an administrative role with respect to such sales ~~or leases~~, the Sites Authority will not have any authority to set prices or terms except as set forth in Section 8.1.1(a); 8.2.1(a):
- (f) the Participant must provide notice to the Sites Authority of the final sale within 5 days of execution;
- (g) (f) Should ~~should~~ a Participant without a Downstream Facilities Capacity ~~Share~~ Interest wish to sell some or all of its Base Facilities Capacity Interest to another Storage Partner that will need to utilize Downstream Facilities to receive their Sites Water, the amount of first priority use for all Downstream Facility users will be adjusted by recalculating the Downstream Facilities Capacity Share in accordance with the formula set out in the Operations Plan. Prior to such sale, (i) the holders of all Downstream Facilities Capacity Shares must approve the transaction (such approval not to be unreasonably withheld); and (ii) Sites Authority may assess a "buy-in" fee on the buyer that would be distributed to the Storage Partners with Downstream Facilities Capacity Share before the sale and subsequent reallocation. The "buy-in" fee would be based on the capital costs of the Downstream Facilities prior to the sale and, if assessed, is intended to



compensate those Participants that funded the construction of the Downstream Facilities~~;~~ and

~~8.1.2 In the event that a Participant leases its Base Facilities Capacity Interest and Downstream Facilities Capacity Share as described in Section 8.1.1(a), such leasing Participant shall remain signatory to its Contract with the Authority and shall continue to be liable and responsible for all of its obligations under this Contract, and shall not be relieved of any such obligations as a result of such lease or sharing.~~

(h) Downstream Facilities Capacity Share cannot be sold independently of the associated Base Facilities Capacity Interest.

8.2.2 ~~8.1.3~~ In the event that a Participant sells all or a portion of its Base Facilities Capacity Interest as described in Section 8.1.1(a)(a), such selling Participant shall remain liable and responsible for all of its obligations under this Contract related to such Base Facilities Capacity Interest until such time as the purchaser of such Base Facilities Capacity Interest has entered into this Contract.

8.2.3 ~~8.1.4~~ If any Project Obligation under a Financing Agreement is outstanding (but only to the extent required under such Financing Agreement), any sale by a Participant of all or a portion of its Base Facilities Capacity Interest shall be subject to the terms of such Financing Agreement, including the right of the applicable Lender to consent to such sale, if any.

8.2.4 ~~8.1.5~~ The Participant: ~~(i) leasing Capacity Interest and Share; or (ii)~~ selling Base Facilities Capacity Interest shall receive Sites Authority and Reservoir Management Board approvals, as necessary, prior to executing any agreements for sale ~~or lease of~~ Base Facilities Capacity Interest requiring such approvals under this Contract. The provisions for ~~lease or sale~~ specified in this Section 8.1.2 constitute all provisions necessary for the Sites Authority Board and Reservoir Management Board approving a sale ~~or lease~~, and such approvals shall not be unreasonably withheld, conditioned or delayed.

### 8.3 ~~8.2~~ Sites Water Sales or Exchanges

8.3.1 ~~8.2.1~~ Participants may sell or ~~exchange~~ Exchange their Sites Water component of their Base Facilities Capacity Interest to other Storage Partners or other entities. The terms of sales or ~~exchanges~~ Exchanges of Sites Water are at the sole discretion of the Participant, provided that:

- (a) terms must not negatively impact other Participants' rights as described in this Contract, the Sites Water Right or the rights of other Storage Partners as set out in their respective contracts;
- (b) notice of any sale or ~~exchange~~ Exchange shall be provided to the staff of the Sites Authority so that Project operations and Water accounting may be maintained;
- (c) any costs to the Sites Authority associated with any sale or ~~exchange~~ Exchange shall follow Beneficiary Pays Principles;
- (d) any sale by an SWP Participant shall be coordinated with the Acquirer; and

- (e) a Participant may not transfer or assign its Capacity Interest and Share or any other rights or obligations under this Contract as part of any sale or ~~exchange~~Exchange, except as set forth in Section 8.4~~8.2~~.

#### 8.4 ~~8.3~~ Maintenance of Tax-Exempt Status of Project Obligations

Notwithstanding any other provision of this Contract, no Participant shall sell any portion of its Capacity Interest and Share, directly or indirectly, or effect a change in the ownership of its Capacity Interest and Share in any other manner, or take or permit to be taken any other action or actions, which would result in any of Project Obligations being treated as an obligation not described in Section 103(a) of the Internal Revenue Code of 1986, as amended, by reason of classification of such Project Obligations as a "private activity bond" within the meaning of Section 141 of said Code or for any other reason; provided, however, that in the event a Sites Financing is accomplished under terms that make the Interest thereon subject to federal income taxation, the foregoing restrictions will be inapplicable to the portion of the Project so financed.

### SECTION 9. MODIFICATIONS FOR CAPITAL IMPROVEMENTS

- 9.1 Subject to Section 9.2, the Sites Authority or any Participant may request capital improvements to provide an added benefit to the Project. Such capital improvements shall be subject to approval by the Sites Authority and the Participants in accordance with Section 4.12. The Sites Authority will prepare and distribute a document detailing the anticipated Project Costs and benefits of the proposed capital improvements.
- 9.2 Participants may not opt out of necessary capital improvements required to maintain initial Project functions and that provide benefits initially contemplated for the Project.
- 9.3 In the event that such proposed capital improvements are not approved in accordance with Section 4.12, a subset of Participants may elect to continue with the capital improvements. Those Project Costs and benefits associated with such capital improvements shall be allocated only to the subset of Participants electing to proceed with the capital improvements in accordance with an agreement among the Sites Authority and such Participants.

### SECTION 10. DEFAULT

#### 10.1 Written Demand

10.1.1 If a Participant or the Acquirer fails to (i) make any payment in full when due under this Contract or (ii) perform any other obligation under this Contract, the Sites Authority shall make written demand upon such Participant or the Acquirer. If a failure described in this Section 10.1.1 is not remedied within 30 days from the date of such demand, such failure shall constitute a default at the expiration of such period; provided that (x) if a failure of the Acquirer to make a payment as described in Section 10.1.1(i) was caused by a failure of an SWP Participant to make a required payment to the Acquirer, such failure of the Acquirer may only be cured by payment from the applicable SWP Participant, and such failure shall not be a liability of the Acquirer; or (y) if a failure described in Section 10.1.1(ii) cannot be remedied within 30 days from the date of such demand but (A) the defaulting Participant commences remedial action within such 30-day period and diligently pursues the remedy of such default until the remedy is complete and (B) such failure is remedied within 90 days from the date of the initial demand, such failure shall not constitute a

default under this Contract. Notice of any such demand shall be provided to each other Participant and the Acquirer by the Sites Authority.

10.1.2 Upon failure of the Sites Authority to perform any obligation of the Sites Authority under this Contract, a Participant may make written demand upon the Sites Authority. If such failure is not remedied within 30 days from the date of such demand, such failure shall constitute a default at the expiration of such period. Notice of such demand shall be provided to all other Participants and the Acquirer by the Participant making such written demand.

10.1.3 In addition to any default resulting from breach by the Sites Authority or a Participant of any agreement, condition, covenant or term of this Contract, if the Sites Authority or a Participant files any petition or institutes any proceedings under any law, state or federal, dealing with or relating to the subject of bankruptcy or insolvency or under any amendment of such law, either as a bankrupt, as an insolvent, as a debtor or in any similar capacity, wherein and whereby the Sites Authority or a Participant asks or seeks or prays to be adjudicated as bankrupt, or is to be discharged from any or all of its debts or obligations, or offers to its creditors to effect a composition or extension of time to pay its debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization or for a readjustment of its debts or for any other similar relief, or if the Sites Authority or a Participant shall make a general or any assignment for the benefit of its creditors, then, in each and every such case, the Sites Authority or such Participant, as applicable, shall be deemed to be in default under this Contract.

## 10.2 Suspension or Termination of Rights; Continuing Obligations

10.2.1 Upon the occurrence and continuance of a default as provided in Section 10.1.1 or in Section 10.1.3, Reservoir Management Board or the Sites Authority Board (as applicable), may give notice of suspension or termination of the defaulting Participant's:

- (a) right to participate or vote as a member of the Reservoir Management Board;
- (b) Capacity Interest and Share, such Participant's interest in Water and such Participant's right to convey Water; and / or
- (c) right to the services obligated to be provided by the Sites Authority relating to the operation of the Sites Project, as provided in the Sites Operations Plan,

which notice shall be effective within 30 days after receipt unless such termination or suspension shall be enjoined, stayed or otherwise delayed by judicial action. The Sites Authority Board shall make determinations under this Section 10.2 pertaining to the Sites Authority Board and the Reservoir Management Board, and the Reservoir Management Board shall make determinations under this Section 10.2 pertaining to the Reservoir Management Board. In the event of a suspension under this Section 10.2.1, the suspension shall remain in effect until the default has been cured to the reasonable satisfaction of the Sites Authority Board or the Reservoir Management Board, as applicable, and notice of such cure and termination of the suspension has been provided to the Participant.

10.2.2 Irrespective of such suspension or termination, the defaulting Participant shall remain liable to the Sites Authority to pay the full amount of Project Costs allocated to such Participant in accordance with Section 6; provided that the Sites Authority shall act reasonably and in good faith to mitigate any damages caused by such Participant's default.

10.3 Disposition of Defaulting Participant's Capacity Interest and Share, Interest in Water and Right to Convey Water

10.3.1 Upon a default and the termination of such Participant's Capacity Interest and Share in accordance with Section 10.2.1(b), the Sites Authority shall use its best efforts to facilitate a sale, for such Participant's account, of all or a portion of the Participant's Capacity Interest and Share, interest in Water and right to convey Water (the "**Defaulted Interests**") for all or a portion of the remainder of the term of this Contract.

10.3.2 The other non-defaulting Storage Partners holding a Capacity Interest and Share in the same Project Facilities (the Base Facilities and/or the Downstream Facilities, as applicable) shall have a "right of first offer" to assume all or a portion of the defaulting Participant's Defaulted Interests and that Participant's related obligations under this Contract, at a price mutually agreed between the defaulting Participant and the Storage Partner purchasing all or a portion of the defaulting Participant's Defaulted Interests. In the event that more than one non-defaulting Storage Partners wish to acquire the Defaulted Interests on the same terms, the Defaulted Interests shall be apportioned *pro rata* based on the non-defaulting Storage Partner's applicable Capacity Interest and Share in each of the Base Facilities and/or Downstream Facilities unless the non-defaulting Storage Partners agree otherwise.

10.3.3 Subject to Section 10.3.4, in the event that the Sites Authority is unable to facilitate a sale of all of the defaulting Participant's Capacity Interest and Share, interest in Water and right to convey Water to other non-defaulting Storage Partners in accordance with Section 10.3.2, the Sites Authority may make such Defaulted Interests available to entities other than the non-defaulting Participants, and may enter into an agreement with such entities for the purchase of all or a portion of the defaulting Participant's Defaulted Interests and the assumption of the related obligations under this Contract.

10.3.4 If any Project Obligation under a Financing Agreement is outstanding (but only to the extent required under such Financing Agreement), any sale of a defaulting Participant's Capacity Interest and Share to entities other than the non-defaulting Storage Partners shall be subject to the terms of such Financing Agreement, including the right of the applicable Lender to consent to such sale, if any.

10.3.5 Notwithstanding any other provisions of this Contract, and to the extent applicable, the Sites Authority shall not facilitate a sale of any portion of a defaulting Participant's Defaulted Interests, directly or indirectly, in any manner that would adversely affect the exclusion from gross income of interest on any Sites Financing for federal income tax purposes.

10.3.6 In the event that the Sites Authority is unable to enter into an agreement with entities for the purchase of all or a portion of the defaulting Participant's Defaulted Interest and the assumption of the related obligations under this Contract under Section 10.3.3, the Defaulted Interests shall subject to Section 10.3.7, be apportioned *pro rata* based on the remaining non-defaulting Participants' applicable Base Facilities Capacity Interest and/or the Downstream Facilities Capacity Share unless the non-defaulting Participants agree to an alternative apportionment of such Defaulted Interests. Notwithstanding the relevant apportionment agreed among the non-defaulting Participants, the foregoing re-allocation will result in a proportional increase in each Participant's Capacity Interest and Share and the related rights and obligations, but in no event shall such re-allocation result in less than 100% of the total Capacity ~~Interest~~Interests and Shares and related rights and obligations (including the defaulting Participant's Defaulted Interest) being allocated among (i) non-defaulting Participants and (ii) such

other entities to which the Sites Authority has successfully transferred such Capacity Interest and Share.

10.3.7 A non-defaulting Participant's pro rata share may not be increased by more than 50% of the Participants applicable Base Facilities Capacity Interest and/or the Downstream Facilities Capacity Share voluntarily acquired by such non-defaulting Participant.

10.3.8 ~~10.3.7~~ Notwithstanding that all or any portion of the defaulting Participant's Capacity Interest and Share, interest in Water and right to convey Water is so sold, such Participant shall remain liable to the Sites Authority to pay the full amount of its share of costs under this Contract as if such sale has not been made, except that such liability shall be discharged to the extent that the Sites Authority shall receive payment from the buyer thereof for that share of costs.

#### 10.4 Enforcement of Remedies

10.4.1 In addition to the other remedies set forth in this Section 10, upon the occurrence of an event of default in accordance with this Contract, any Party shall be entitled to proceed to protect and enforce the rights vested in such Party by this Contract by such appropriate judicial proceeding as such Party shall deem most effectual, either by suit in equity or by action at law, whether for the specific performance of any covenant or agreement contained herein or to enforce any other legal or equitable right vested in such Party by this Contract or by law. The provisions of this Contract and the duties of each Party, their respective boards, officers or employees shall be enforceable by the other Parties by mandamus or other appropriate suit, action or proceeding in any court of competent jurisdiction, with the losing Party paying all costs and attorney fees of the prevailing Party.

10.4.2 Without limiting the generality of the foregoing, the Sites Authority or the Participants, as applicable, shall have the right to bring the following actions:

- (a) Accounting. By action or suit in equity to require the Sites Authority Board or the Participants, its officers and employees and its assignee to account as the trustee of an express trust.
- (b) Injunction. By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of the Sites Authority or a Participant, as applicable.
- (c) Mandamus. By mandamus or other suit, action or proceeding at law or in equity to enforce its rights against the other Party hereto (and its board, officers and employees) and to compel the other Party hereto to perform and carry out its duties and obligations under the law and its covenants and agreements as provided herein.

#### 10.5 Waiver

10.5.1 The waiver by any Party of any breach by any other Party of any agreement, condition, covenant or term under this Contract shall not operate as a waiver as to any subsequent breach of the same or any other agreement, condition, covenant or term under this Contract."

## SECTION 11. TERMINATION

### 11.1 Termination Prior to Completion

11.1.1 In the event that any of the conditions precedent to construction in Section 3.2 are not satisfied on or before \_\_\_, 202\_\_, the Sites Authority may terminate this Contract in accordance with this Section. This Section 11.1.1 shall have no further force or effect if such conditions precedent are finalized on or before such date.

11.1.2 Without limiting Section 11.1.1, this Contract may be terminated before Completion in the following manner:

- (a) If the Sites Authority and the Reservoir Management Board determine, in accordance with Section 4.12 (including as provided in Section 3.1), that the Project will be terminated before Completion because of infeasibility, impracticality, inability, failure of the Participants to fund the Project as provided in Section 6, or failure of the Sites Authority to construct the Project as provided in Section 3, the Sites Authority shall adopt a resolution to wind-up the Project (a “**Wind-Up Resolution**”).
- (b) Upon adoption of a Wind-Up Resolution by the Sites Authority, the Sites Authority shall first offer to sell the Project Assets to the Storage Partners (excluding the Partner Facilities ), at a fair market value as determined by a majority of a panel of 3 licensed appraisers, including (i) any partially constructed or completed physical works or assets that divert Sites Water into or release Sites Water from the Sites Owned Facilities and (ii) any other non-physical rights, interests, or obligations related to the Project. If any Storage Partners accept such offer for any or all of the offered interests, then the Sites Authority and such purchasing Storage Partners shall work in good faith to close upon the sale of such interests within 180 days after the appraiser panel’s determination of fair market value.
- (c) Upon adoption of a Wind-Up Resolution by the Sites Authority, the Sites Authority shall appoint a winding-up agent (the “**Winding-Up Agent**”). The Winding-Up Agent shall, upon expiration of the time for the Storage Partners to accept the offer described in Section 11.1.2(b), prepare a plan for disposition of the Project Assets, which shall include plans for mitigating or remediating any hazardous or unsafe conditions located on the Project site that are a direct result of the construction of the Project, and upon approval of the Sites Authority, implement the disposition of the Project Assets in accordance with the plan for disposition, including the disposition of unexpended and unobligated funds of the Sites Authority and the Storage Partners. Non-cash assets shall be liquidated by the Winding-Up Agent in a commercially reasonable manner. Proceeds from the disposition of Project Assets and any other cash or cash equivalents then held by the Sites Authority shall first be used, based on the Capacity Interest and Share, to pay the following amounts in the following order of priority (i) repay debts of the Sites Authority incurred for funding the Project; provided, however, that any moneys contributed by a Self-Funding Participant and held at the time of a winding-up shall not be used to repay debts of the Sites Authority incurred for funding the Project, (ii) pay the costs of mitigating or remediating hazardous or unsafe conditions located on the Project site pursuant to the plan for disposition of the Project Assets, and (iii) distribute cash to the Participants that had satisfied their capital funding obligations



in accordance with Section 6. Any remaining funds shall then be distributed to the Storage Partners based on their proportional respective Capacity ~~Interest~~Interests and Shares. Subject to the Sites Authority Records Management Policy, Storage Partners shall be entitled to copies of any work products developed by the Sites Authority or its consultants on behalf of the Storage Partners, and the Sites Authority shall convey to the Storage Partners, as tenants in common with all other Storage Partners who are not in default of this Contract, a pro rata interest based on the Capacity ~~Interest~~Interests and Shares in all real and personal property remaining after implementation of the plan for disposition of the Project Assets in accordance with this Section 11.1.

- (d) Upon completion of the winding-up process described in this Section 11.1, the Sites Authority shall adopt a resolution of termination of the Project. Upon the adoption of such resolution, all Capacity ~~Interest~~Interests and Shares shall be terminated.

11.1.3 Notwithstanding any other provision of this Contract, so long as any Project Obligation under a Financing Agreement is outstanding (but only to the extent required under such Financing Agreement), the termination of this Contract (including under Section 11.1.1 or Section 11.1.2) shall be subject to the terms of such Financing Agreement, including the right of the applicable Lender to consent to such termination, if any.

## **SECTION 12. DISPUTE RESOLUTION**

### **12.1 Informal Dispute Resolution before Mediation**

12.1.1 The Participants, the Sites Authority and the Acquirer (as applicable to their rights, obligations and liabilities under this Contract) agree to undertake good faith efforts to resolve any dispute arising in connection with this Contract within 60 days after the date that notice of such dispute is provided in writing prior to resorting to formal means of dispute resolution, including disputes related to the Sites Operations Plan.

12.1.2 If any dispute is not capable of resolution by and among the representatives of the Participants, Sites Authority and the Acquirer authorized to administer this Contract, the authorized representative of the applicable Participants, the authorized representative of the Acquirer, as applicable, and the Sites Authority's Board Chair or his/her authorized representative (who shall be the Executive Director of the Sites Authority or a member of the Sites Authority Board) shall meet and confer in an effort to resolve any such dispute.

12.1.3 If such efforts between the applicable Participants' principals, the Sites Authority's designee and the Acquirer's designee do not resolve the dispute within 30 days after their commencement, the applicable Participants, the Sites Authority and the Acquirer shall have such other remedies available to them as are provided for in this Contract or as otherwise exist at law or in equity.

12.1.4 No other means of dispute resolution, including mediation, arbitration and litigation, shall be available to the Participants, the Sites Authority and the Acquirer unless they have exhausted the process provided for in this Section 12.1.

### **12.2 Mediation**



12.2.1 If a dispute arises among one or more Participant, the Sites Authority and the Acquirer relating to or arising from a Party's obligations under this Contract that cannot be resolved through informal discussions and meetings as described in Section 12.1, the Parties involved in the dispute shall be required to first endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the rules of JAMS, AAA, or any other neutral organization agreed upon by the Parties before having recourse in a court of law. Mediation shall be commenced by sending a notice of demand for mediation to the other Parties involved in the dispute.

12.2.2 A single mediator that is acceptable to all Parties involved in the dispute shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Contract, if possible, and chosen from lists furnished by JAMS, AAA, or any other agreed-upon mediator.

12.2.3 The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All mediation costs, including required travel and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be equally shared by the Parties to the dispute unless otherwise directed by the mediator.

### 12.3 Conduct of Mediation

12.3.1 Mediation will be conducted in an informal manner. Discovery shall not be allowed except in accordance with the Public Records Act. The discussions, statements, writings and admissions and any offers to compromise during the proceedings will be confidential to the proceedings (pursuant to California Evidence Code §§ 1115 —1128; 1152) and will not be used for any other purpose unless otherwise agreed by the applicable Parties in writing. The applicable Parties may agree to exchange any information they deem necessary.

12.3.2 The Parties involved in the dispute shall have representatives attend the mediation who are authorized to settle the dispute, though a recommendation of settlement may be subject to the subsequent approval of each Party's governing body. Any involved Party may have attorneys, witnesses or experts present.

12.3.3 Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the Parties to the dispute. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

12.4 Nothing in this Section 12 shall relieve the Parties from performing their obligations under this Contract. The Parties shall be required to comply with this Contract, including the performance of all disputed activity and disputed payments, pending the resolution of any dispute under this Contract.

12.5 Any offers to compromise before or after mediation proceedings will not be used to prove a Party's liability for loss or damage unless otherwise agreed by the Parties in writing (pursuant to California Evidence Code §1152).

## **SECTION 13. LIABILITY**

### 13.1 Sites Authority Liability

Any and all obligations of the Sites Authority that may arise under this Contract, whether financial or otherwise, shall be payable solely from the revenues, income, rents and receipts earned by the Sites Authority. Nothing in this Contract shall be deemed to prevent the Sites Authority from making any payments from any other legally available source. In no event shall the Sites Authority be required to spend any money from revenue from taxes, assessments, fees or charges in violation of Applicable Law or Governmental Approvals in the performance of its obligations under this Contract. The obligations of the Sites Authority under this Contract do not constitute a debt or indebtedness of the Sites Authority within the meaning of any constitutional or statutory provision or limitation, and shall not be considered or held to be a general obligation of the Sites Authority.

### 13.2 Participant Liability

In no event shall any Participant or the Acquirer be required to spend any money from taxes in violation of Applicable Law or Governmental Approvals in the performance of its obligations under this Contract.

### 13.3 Consequential Damages

No Participant nor the Acquirer shall be liable to another Participant, to the Acquirer or to the Sites Authority, and the Sites Authority shall not be liable to the Participants or the Acquirer, for consequential, indirect, punitive, or special damages arising under this Contract.

## **SECTION 14. INSURANCE**

- 14.1 The Sites Authority will procure and maintain or cause to be procured and maintained, at a minimum, the following insurance with responsible insurers in such amounts and against such risks (including damage to or destruction of the Project Assets) as are usually covered in connection with facilities that are similar to the Project Assets (so long as such insurance is commercially available from reputable insurance companies at reasonable rates): (a) insurance on the Project Assets, excluding coverage for earthquake damage or destruction; (b) workers' compensation insurance in statutorily-prescribed amounts; and (c) commercial general liability insurance covering against claims of bodily injury and property damage. The Participants and the Acquirer shall be named as additional insureds under all insurance policies maintained pursuant to this section, and such insurance policies shall be primary and noncontributing with any and all insurance carried by the Participants or the Acquirer.

## **SECTION 15. MISCELLANEOUS**

### 15.1 Relationship of Parties

In the exercise of their respective rights and obligations under this Contract, the Sites Authority, the Participants and the Acquirer each act in an independent capacity, and none is to be considered the officer, agent, contractor or employee of another.

### 15.2 Severability

15.2.1 If any provision or part of this Contract is ruled invalid (including invalidity due to any change in law) by a court having proper jurisdiction, then the Parties shall:

- (a) promptly meet and make efforts to negotiate a substitute for such provision or part, which shall, to the greatest extent legally permissible, effect the original intent of the Parties, including (as applicable) an appropriate adjustment to obligations to be performed or payments to be made in accordance with this Contract to account for any change in the services rendered in accordance with this Contract resulting from such invalidated portion; and
- (b) if necessary or desirable, apply to the court or other decision maker (as applicable) that declared such invalidity for an interpretation of the invalidated portion to guide the Parties' negotiation.

15.2.2 The invalidity or unenforceability of any such provision or part shall not affect the validity or enforceability of the balance of this Contract, which shall be construed and enforced as if this Contract did not contain such invalid or unenforceable provision or part.

### 15.3 Notices

15.3.1 Any notices required or permitted under this Contract shall be in writing and sufficiently given if made in writing and (a) delivered personally, (b) sent by registered or certified mail, postage prepaid, or (c) sent by email communication, in each case addressed to the respective Parties at the addresses indicated in the Project Specific Information. Notice required to be given to all Participants and/or the Acquirer under this Contract shall be given to the addresses indicated in the Project Specific Information or to such other addresses as the Participants may provide to the Sites Authority, the other Participants and the Acquirer from time to time.

15.3.2 Any Participant or the Acquirer may from time to time change the address to which notice may be provided by providing notice of the change to the Sites Authority who will update the address in the Project Specific Information to reflect such change.

### 15.4 Other Agreements Not Prohibited

Other agreements by and between the Parties of this Contract or any other entity are neither prohibited nor modified in any manner by execution of this Contract.

### 15.5 Assignment

15.5.1 The Sites Authority may pledge and assign to any Lender or trustee for bonds or other Financing Agreements, all or any portion of the payments received under this Contract from each Participant (other than payments from a Self-Funding Participant) and the Sites Authority's other rights and interests under this Contract. Each Participant hereby consents to such pledge and assignment. Such pledge and assignment by the Sites Authority shall be made effective for such time as the Sites Authority shall determine and otherwise as required under the relevant Financing Agreement and ~~provided~~provide that the applicable Lender or trustee under the terms set forth in such Financing Agreement shall have the power to enforce this Contract in accordance with Section 15.15.2 the event of a default by the Sites Authority under such Financing Agreement.

15.5.2 Except as otherwise provided in Section 15.5.1, the rights, titles, and interests of any Party to this Contract shall not be assignable or transferable without the consent of the Sites Authority and the governing body of each Party to this Contract.

15.6 Section Headings

The section headings in this Contract are for convenience of the Parties only, and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions or language of this Contract.

15.7 Governing Law and Venue

This Contract shall be governed by and construed in accordance with the laws of the State of California, any applicable federal law, the JPA Agreement, the Sites Authority Bylaws and the ordinances, regulations, codes, and executive orders enacted and/or promulgated pursuant thereto. The venue for any litigation between the Parties from any dispute arising in connection with this Contract shall be in the County of Colusa.

15.8 Construction of Language

It is the intention of the Parties to this Contract that if any provision of this Contract is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

15.9 Successors

This Contract shall be binding upon and inure to the benefit of the Sites Authority and each Participant and each of their permitted successors, assigns, and legal representatives.

15.10 Enforcement

The Parties are hereby authorized to take any and all legal or equitable actions, including an injunction and specific performance, necessary or permitted by law to enforce this Contract.

15.11 Integration

This Contract, together with its incorporated documents and references, constitute the entire agreement and understanding of the Parties and supersedes all prior agreements and understanding between the Parties relating to the subject matter of this Contract. Except as expressly provided in this Contract, this Contract may not be interpreted, modified or changed by reference to other documents, understandings or agreements, whether written or oral, unless the interpretation, modification or change is subsequently agreed to in writing by the Parties to this Contract.

15.12 Amendment

15.12.1 Except as otherwise may be provided in this Contract, including Section 3.6, neither this Contract nor any provision under this Contract may be modified or amended except with the written consent of (1) the Sites Authority, (2) at least 75% of the ~~Participants, and (3) Participants that collectively hold at least 75% of the Base Facilities Capacity Interest held by~~weighted vote of the Participants; provided, however, that:

- (a) if any Financing Agreement is outstanding, any amendment to this Contract will be subject to the terms and conditions set forth in any such Financing Agreement;
- (b) this Contract may not be amended without a Participant's written consent if the Contract is to be amended in a manner that results in a material adverse impact on the rights of such Participant under this Contract to control its Capacity Interest and Share or have Water diverted into, stored in, or released from the Project Facilities under its Capacity Interest and Share on a pro-rata and substantially similar basis with other Participants; and
- (c) this Contract may not be amended in a manner that would cause the Sites Authority to violate Applicable Law or provisions of any Governmental Approvals.

15.12.2 If at any time a Party believes that, due to any significant change in circumstances, compliance with this Contract by such Party would produce grossly inequitable results or subject it to financial hardship of extraordinary magnitude, such Party may by written notice call on the Reservoir Management Board to review and discuss the effects of such change of circumstances. Within 30 days after receipt of such notice, the Reservoir Management Board shall meet to consider how to deal with such inequities or hardship in a manner which is fair for all Parties in view of all changes and circumstances, and shall attempt to eliminate promptly any such inequity or hardship through good faith negotiations. If the Parties agree on a method to eliminate such inequity or hardship, then this Contract shall be amended in accordance with Section 15.12.1, as appropriate, except as provided in Section 15.12.3.

15.12.3 The Sites Authority shall enforce the provisions of this Contract and duly perform its covenants and agreements contained in this Contract. The Sites Authority will not consent or agree to or permit any rescission of or amendment to or otherwise take any action under or in connection with this Contract which will in any manner materially impair or materially adversely affect the rights of the Sites Authority under this Contract or the rights of the members of the Reservoir Management Board.

#### 15.13 Authorization and Opinion

15.13.1 Each Participant and the Acquirer attaches to this Contract a true and correct copy of such Participant's records authorizing the officers, whose names appear on this Contract, to enter into this Contract.

15.13.2 Each Participant and the Acquirer further attaches an opinion of an attorney or firm of attorneys as described in Section 2.1.1(b).

#### 15.14 Counterparts; Electronic Execution

This Contract may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures may be delivered by facsimile transmission or by e-mail in a portable document format (e.g. "pdf," "tif," "jpg" or "DocuSign") or other electronic format and the signatures on such copies shall be deemed to be effective and valid as original signatures.

**15.15 No Third-Party Beneficiaries**

15.15.1 All of the covenants contained in this Contract are for the express benefit of each Party, and any Participant shall have the right as a third-party beneficiary to initiate and maintain suit to enforce the obligations of other Participants hereunder. Except as provided by this Section 15.15, this Contract is not intended to benefit any third parties, and any other third-party beneficiaries are expressly disclaimed.

15.15.2 Notwithstanding Section 15.5.1, any Lender shall have the right as a third-party beneficiary to initiate and maintain suit to enforce this Contract to the extent provided in any Project Obligations or Financing Agreement. Without limiting the generality of the foregoing, so long as any Project Obligation under a Financing Agreement is outstanding (but only to the extent provided under such Financing Agreement), and only while such Financing Agreement is in effect, upon the occurrence of an event of default under such Financing Agreement, the applicable Lender, under the terms of such Financing Agreement, may exercise the enforcement rights in Section 10 of this Contract, including but not limited to the right to enforce any invoicing made by the Sites Authority to a Participant in accordance with this Contract. Each Participant hereby consents to such Lender's rights as a third-party beneficiary under this Contract as provided in this Section 15.15.2.

**15.16 Advice of Counsel**

The Parties acknowledge that they have the right to be advised by counsel with respect to the negotiations, terms, and conditions of this Contract, and that the decision of whether or not to seek the advice of counsel with respect to this Contract is a decision which is the sole responsibility of each of the Parties. This Contract is the product of negotiation and therefor shall not be construed against any Party.

**15.17 Compliance with Laws and Financing Agreements**

15.17.1 The Parties shall comply with all Applicable Law and Governmental Approvals.

15.17.2 Prior to the execution and delivery of a Financing Agreement by the Sites Authority, the Sites Authority shall provide the Participants with a substantially final draft of such Financing Agreement (but only to the extent required under such Financing Agreement). If required as a condition to the effectiveness of such Financing Agreement, each Financing Participant participating in the Sites Financing to which such Financing Agreement relates shall provide acknowledgment of (a) the receipt of such Financing Agreement and (b) such other matters as required by such Financing Agreement, including without limitation, the pledge and assignment by the Sites Authority to the applicable Lender, the applicable Lender's right to enforce this Contract as a third-party beneficiary, other various consent rights of the applicable Lender described in this Contract, as applicable, and other rights of the applicable Lender as they may relate to this Contract and the rights and obligations of the Parties, in each case as set forth in such Financing Agreements.

15.17.3 Each Financing Participant participating in the Sites Financing to which any Financing Agreement relates and the Sites Authority shall cooperate with any Lender with third party beneficiary rights with respect to this Contract in enforcing compliance with the terms of this Contract (including the requirements set forth in Section 15.17.2).

SIGNATURES ON FOLLOWING PAGE(S)



**IN WITNESS WHEREOF**, the Parties have caused this Contract to be executed and attested by their proper officers duly authorized on the day and year set forth below, making this Contract effective on the Effective Date.

**SITES PROJECT JOINT POWERS  
AUTHORITY**

**[INSERT PARTICIPANT]**

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

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

**[INSERT PARTICIPANT]**

**STATE OF CALIFORNIA DEPARTMENT  
OF WATER RESOURCES**

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

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

**[INSERT PARTICIPANT]**

**[INSERT PARTICIPANT]**

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

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

## APPENDIX 1

### DEFINITIONS

Unless the context otherwise requires, definitions for certain capitalized acronyms, abbreviations and terms used in this Contract have the meanings given in this Appendix 1.

**AAA:** Means American Arbitration Association.

**Acre-foot:** Means 43,560 cubic feet of water.

**Acquirer:** Means DWR, acting as acquirer of Sites Water from the Project in accordance with California Water Code Section 11575 and/or other Applicable Law on behalf of the SWP Participants and otherwise responsible for performing the functions set out in Section 1.3 of this Contract on behalf of the SWP Participants.

**Applicable Law:** Means applicable federal, state and local laws, ordinances, rules, regulations, orders, and policies relating to the Project.

**Approved Design Documents:** Means for each of the anticipated Sites Owned Facilities, the most recently approved submittal of the Design Documents or final Design Documents prepared by the applicable designer and approved by the Sites Authority.

**Associate Member:** Has the meaning given in the Sites Authority Bylaws.

**Base Facilities:** Means the Sites Owned Facilities or other facilities available to all ~~Participants~~Storage Partners including those listed in the Project Specific Information, as modified from time to time.

**Base Facilities Capacity Interest:** Means the undivided capacity right of each Storage Partner to store, convey and divert Sites Water in each of the Base Facilities granted by the Sites Authority and owned by the Storage Partners in accordance with Section ~~Error! Reference source not found.~~3.5, and in the pro-rata share set out for each Storage Partner in the Project Specific Information and subject to the Sites Water Right, Applicable Law and Governmental Approvals.

**Beneficiary Pays Principles:** Means the principle for allocating all costs associated with delivering certain Project benefits, including public and non-public benefits, to the party receiving such benefits.

**Billing Party(ies):** Has the meaning given in Section 6.2.1.

**Billing Statement:** Has the meaning given in Section 6.3.

**Business Day:** Means a day other than (i) a Saturday or Sunday, (ii) a day which the Sites Authority offices are officially closed, and/or (iii) a day which banks are required or authorized by law to be closed in the State of California.

**Capacity Interest and Share:** Means (i) in the case of the Base Facilities, the Base Facilities Capacity Interest; and (ii) in the case of the Downstream Facilities, the Downstream Facilities Capacity Share, or both of them as the context requires.

**Capital Improvement Plan:** Has the meaning given in Section 4.14.1.

**CEQA:** Has the meaning given in Recital [GD](#) to this Contract.

**Colusa County / Sites Authority MOU:** Means that certain Memorandum of Understanding between the Sites Authority and Colusa County dated on or about November 22, 2021.

**Completion:** Means the determination by the Sites Authority Board and the Reservoir Management Board that the Project Facilities are complete for the purposes of providing water service, including water storage, intake, outlet, and conveyance, to Storage Partners.

**Construction:** Means all work to build or construct, rehabilitate, upgrade, make, form, manufacture, furnish, install, supply, deliver, landscape, equip, test and commission any structure, building, or other improvement to real property included in the Project.

**Construction Contract:** Means a contract between the Sites Authority and a contractor to perform Construction work for of all or a portion of the Project.

**Contract:** Means this Sites Reservoir Benefits & Obligations Contract, including all Appendices and Exhibits as described in Section 1.1.1, as such Contract may be modified from time to time in accordance with this Contract.

**Defaulted Interest:** Has the meaning given in Section 10.3.1.

**Delivery Point:** Means with respect to each Participant, the delivery point for Water specified in the Project Specific Information.

**Design Documents:** Means all drawings (including plans, elevations, sections, details and diagrams), specifications, reports, calculations, records and submittals developed by the applicable designer as necessary for design of each Sites Owned Facility.

**Downstream Facilities:** Means the Sites Owned Facilities or other facilities that are utilized by select Storage Partners listed in the Project Specific Information, as modified from time to time.

**Downstream Facilities Capacity Share:** Means a share expressed in percentage based on the ratio of each Storage Partner's Base Facilities Capacity Interest to the sum of the total Base Facilities Capacity Interest of all Storage Partners with Downstream Facilities Capacity Share, specified in the Project Specific Information, as modified from time to time in accordance with this ~~Agreement-Contract~~. [Note: All Participants will be able to acquire Downstream Capacity at the time they make their commitment to purchase Base Capacity. This is a "toggle" - that is, the agency either wants Downstream Capacity or not. If the agency opts into Downstream Capacity, it will be allocated as a portion of all the entities (including the State and Bureau) that sign up for Downstream Capacity in proportion to Base Capacity Interest.]

**DWR:** Means the State of California Department of Water Resources.

**Effective Date:** Has the meaning given in Section 2.1.2 and specified in the Project Specific Information.

**Exchange:** Means a voluntary action to exchange a quantity of Sites Water for a like quantity of Other Water to produce additional benefits as a result of the exchanged water.

**Final EIR:** Has the meaning given in Recital ~~CD~~ to this Contract.

**Financing Agreements:** Means any indenture, trust agreement, loan agreement, installment purchase agreement or other financing document entered into by the Sites Authority in connection with any Project Obligations.

**Financing Obligations:** Means the obligation of a Financing Participant to pay a percentage of the total Sites Financing Costs in accordance with Section 6.4. The amount of each Participant's Financing Obligations for any Sites Financing will be set out in separate line items in the Project Specific Information, which line items the Sites Authority may update from time to time as needed.

**Financing Participant:** Means, with respect and to the extent a Participant participates in a Sites Financing, all Participants other than Self-Funding Participants.

**Financing Participation Percentage:**

Means, with respect to each Sites Financing, the applicable percentage determined in accordance with the following formula:

$$FPP = [PFPC / TFPC]$$

Where:

FPP = Applicable Base Financing Participation Percentage or Downstream Financing Participation Percentage

TFPC = Total Fixed Project Costs to be funded with proceeds of a Sites Financing

PFPC = Participant's Fixed Project Costs to be funded with proceeds of a Sites Financing

The amount of each Financing Participant's Base Financing Participation Percentage and Downstream Financing Participation Percentage that is applicable to each Sites Financing will be determined by the Sites Authority Board at the time of such Sites Financing and shall be reflected in the Project Specific Information.

**Fiscal Year:** Means the period beginning on January 1 of each calendar year and ending on the last day of December of such calendar year, or any other accounting period hereafter selected and designated by the Sites Authority as the Fiscal Year of the Sites Authority.

**Fixed O&M Costs:** Means (1) all costs, calculated in accordance with Generally Accepted Accounting Principles, incurred by the Sites Authority (i) to administer, operate, maintain, power, repair, replace, and, to the extent that reserves are available, rehabilitate and improve, the Project, (ii) attributable to the conveyance and storage of water in the Sites Owned Facilities excluding pumping costs, carriage costs, and power interference costs; (iii) for the Sites Authority defense or other legal costs, including payment of claims, settlements or judgments (iv) to meet regulatory requirements associated with the Project; including administrative and legal costs of the Sites Authority, overhead, insurance, taxes (if any), fees of auditors, accountants, attorneys or

engineers and insurance premiums, and including all other reasonable and necessary costs of the Sites Authority, or charges required to be paid by it to comply with the terms of the Financing Agreements or this Contract; (v) to replenish operating reserves of the Project; and (2) amounts required for compliance with Sections 3.2 and 3.5 of the Master Resolution or any similar provisions thereof; but excluding in all cases (A) depreciation, replacement and obsolescence charges or reserves for such costs, (B) amortization of intangibles or other bookkeeping entries of a similar nature, (C) costs of capital additions, replacements, betterments, extensions or improvements to the Project, which under Generally Accepted Accounting Principles are chargeable to a capital account or to a reserve for depreciation and (D) Sites Financing Costs, in each case incurred by the Sites Authority with respect to the Project. Fixed O&M Costs are incurred irrespective of the amount of Water diverted, stored or released to the Participants. Fixed O&M Costs include any and all costs and expense that are not Fixed Project Costs, Sites Financing Costs or Variable O&M Costs that may accrue to the Sites Authority after execution of this Contract. Fixed O&M Costs exclude any such costs paid under the State and Federal Contracts.

**Fixed Project Costs:** Means (i) development, design, construction and capital costs of the Project, and (ii) individual repair, replacement, rehabilitation, improvement, or regulatory compliance activities incurred after Completion to the extent not covered by Fixed O&M Costs. Fixed Project Costs exclude any such costs paid under the State and Federal Contracts.

**Fixed Project Cost Funding Obligation:** Means, with respect to each Participant, such Participant's obligation to fund Fixed Project Costs, calculated in accordance with Section 6.5.

**Force Majeure:** Means events beyond the reasonable control of a Party, including strikes, riots, wars, fire, earthquakes, acts of God and/or unusual acts of nature, acts in compliance with any law, regulation or order (whether valid or invalid) by the United States of America or any state thereof or any other domestic or foreign governmental body or instrument thereof having jurisdiction in the matter, in each case which directly, materially and adversely affects a Party's ability to perform its obligations under this Contract.

**Generally Accepted Accounting Principles:** Means such accepted accounting practice as conforms at the time to generally accepted accounting principles to public agencies in the United States of America, consistently applied.

**Good Industry Practice:** Means the exercise of the degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced designer, engineer, constructor, supplier, manager, operator or maintenance provider, as applicable, operating in the United States under the same or similar circumstances and conditions, seeking in good faith to comply with its contractual obligations, this Contract and all Applicable Law and Governmental Approvals in conformance with applicable professional engineering principles, construction, operations and maintenance practices generally accepted as standards of the industry in the State.

**Governmental Approval:** Means any permit, license, consent, concession, court order, grant, franchise, authorization, waiver, certification, exemption, filing, lease, registration or ruling, variance or other approval, guidance, protocol, mitigation agreement, settlement agreement, agreement or memorandum of agreement/understanding, and any revision, modification, amendment, supplement, renewal or extension of any of the foregoing, required by or with any Governmental Entity in order to perform the purposes of this Contract.

**Governmental Entity:** Means any federal, state, local or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity other than the Sites Authority.

**Inactive Storage Pool:** An increment of total storage to be determined in the Operations Plan which is not available for use by the Storage Partners.

**Interim Agreements:** Means previously executed agreements between the Participants and the Sites Authority under which Participants agreed to pay a pro rata portion, based on participation percentages, for the operation, maintenance, legal, administrative, improvement, and other costs of developing the Project before execution of this Contract, as listed in the Project Specific Information.

**JAMS:** Means Judicial Arbitration and Mediation Service, Inc.

**JPA Agreement:** Means the Fifth Amended and Restated Joint Exercise of Powers Agreement, effective [ ], 202[ ], by and among the parties set forth on the execution page thereof, as amended and supplemented from time-to-time.

**LAIF:** Means the Local Agency Investment Fund of the State.

**Lease Offer Notice:** Has the meaning given in Section 8.1.1(e).

**Lease Negotiated Terms:** Has the meaning given in Section 8.1.1(a).

**Lender:** Means any lender, bondholder, noteholder, lessee or other holder of any Project Obligations ~~(including the State of California, Reclamation, or any department, bureau or other affiliated entity thereof)~~, as applicable, incurred in connection with a Sites Financing of the Project.

**Master Resolution:** Means the Sites Authority Resolution Providing for the Prioritization of Use for Project Revenues, approved and adopted by the Sites Authority, as supplemented and amended from time to time.

~~**Negotiated Terms:**  
Has the meaning given in  
Section 8.1.1(a).~~

**NEPA:** Means the National Environmental Policy Act.

~~**Offer Notice:** Has the  
meaning given in Section  
8.2.1(e).~~

**O&M Costs:** Means Fixed O&M Costs and Variable O&M Costs, or either of them, as the context requires.

**Other Water:** Means water other than Sites Water that a Storage Partner may request the Sites Authority to store in and/or convey through Project Facilities.

**Participants:** Means the entities listed in the Project Specific Information, including any successor or any assignee of such Participant permitted in accordance with Section 15.9.

**Parties:** Means each of the Participants, the Sites Authority and the Acquirer that executed this Contract, or any of them, as the context requires.

**Partner Agreements:** Means any agreement entered into between the Sites Authority and another entity in accordance with which the Sites Authority has the right to convey Water to or from the Project, as amended from time to time. The list of Partner Agreements as of the Effective Date is included in the Project Specific Information.

**Partner Facilities:** Means any facilities used by the Sites Authority to convey Water to, or from, the Sites Owned Facilities in accordance with the Partner Agreements, and as further described in Exhibit 1 to Appendix 2.

**Project:** Means the entire physical infrastructure and capital improvements to be designed, constructed, commissioned and completed or contracted for use by the Sites Authority, including the Sites Owned Facilities and the Partner Facilities, as reflected in the Project Specific Information, for the purpose of providing storage and conveyance of water for use by Storage Partners in accordance with their Capacity Interest and Share, as such project may be modified from time to time.

**Project Assets:** Means all of the tangible and intangible assets relating to the Project, including (i) the Project Facilities, (ii) all real property determined by the Sites Authority to be required for construction or operation of the Project, (iii) rights over the Project Facilities in the form of license, right-of-way or otherwise, (iv) tangible assets such as foundations, buildings, pavements, works, and equipment, (v) the Sites Water Right, and (vi) all Governmental Approvals.

**Project Costs:** Means the sum of Fixed O&M Costs, Fixed Project Costs, Variable O&M Costs and Sites Financing Costs payable by the Participants under this Contract, or each of them, as the context requires.

**Project Facilities:** Means collectively the Sites Owned Facilities and the Partner Facilities, or any of them as the context requires, and as further described in Exhibit 1 to Appendix 2.

**Project Obligations:** Means any bonds, notes, loans or other evidences of indebtedness issued or incurred by or on behalf of the Sites Authority with respect to the Project.

**Project Specific Information:** Means Appendix 2 to this Contract, as modified from time to time in accordance with this Contract.

**Proposed Sites Financing Incurrence Date:** Has the meaning given in Section 5.2.1.

**Proposition 1 Water Storage Investment Program Contract:** Means the agreements between the Sites Authority and the State through the California Water Commission anticipated to be titled Funding Agreement Between the State of California (California Water Commission) and the Sites Joint Powers Authority, setting out [ ] and anticipated to be dated on or about the date of this Contract.

**Public Benefit Agreements:** Means the agreement between the Sites Authority and DWR; anticipated to be titled Proposition 1 Water Storage Investment Program Contract for Administration Of Public Flood Control/Recreation Benefits and the agreement between the Sites Authority and CDFW anticipated to be titled Proposition 1 Water Storage Investment Program Contract for Administration of Public Ecosystem Benefits, or each of them as the context requires.



**Reclamation:** Means the Bureau of Reclamation, an agency of the United States of America.

**Reclamation Partnership Agreement:** Means the agreement between the Sites Authority and Reclamation anticipated to be titled Reclamation Partnership Agreement setting out [ ] and anticipated to be dated on or about the date of this Contract.

**Release Request Form:** Has the meaning given in Section 4.4.

**Reservoir Management Board:** Means the Reservoir Management Board of the Sites Authority, established by the JPA Agreement, as such Reservoir Management Board may be modified from time to time.

**Revenue Fund:** Means the fund by that name established by the Sites Authority in accordance with the Master Resolution.

**Sale Offer Notice:** Has the meaning given in Section 8.2.1(e).

**Sale Negotiated Terms:** Has the meaning given in Section (a).

**Secondary Delivery Point(s):** Means a location designated by a Participant for delivery of Water as described in Section 4.6.

**Self-Funding Election Date:** Has the meaning given in Section 5.4.

**Self-Funding Notice:** Has the meaning given in Section 5.4.

**Self-Funding Participant:** Means a Participant that satisfies all or a portion of its obligation to pay Fixed Project Costs through Self-Funding Participant Cash Payments in accordance with Section 5.4. A Participant is a Self-Funding Participant to the extent that it satisfies its Fixed Project Cost Funding Obligation through Self-Funding Participant Cash Payments, and then only for the term of any payments of Fixed Project Costs using proceeds from Self-Funding Participant Cash Payments made by such Participant.

**Self-Funding Participant Cash Payment:** Has the meaning given in Section 5.5.2.

**Sites Authority:** Has the meaning given in Recital A of this Contract.

**Sites Authority Bylaws:** Means the Phase 3, 4, 5 Bylaws of the Sites Authority, adopted by the Sites Authority Board in connection with its adoption of the JPA Agreement, as amended or supplemented from time to time.

**Sites Authority Policies:** Means those policies and guidelines adopted by the Sites Authority and listed in the Project Specific Information, as such policies may be modified from time to time.

**Sites Authority Records Management Policy:** Means the Records Management Policy of the Sites Authority, initially dated [ ], [ ] as such policy may be modified from time to time.

**Sites Financing:** Means a financing by the Sites Authority of Fixed Project Costs through the incurrence of Project Obligations on behalf of the Financing Participants participating in the applicable financing.

**Sites Financing Costs:** Means any and all costs associated with a Sites Financing, including (a) the principal of and interest, including default interest incurred in connection with a Sites Financing, on all Project Obligations, (b) fees payable to Lenders and others related to the issuance and administration of a Sites Financing, and (c) reserves required in connection with the incurrence of Project Obligations, if any.

**Sites Financing Incurrence Notice:** Has the meaning given in [Section 5.2.1](#).

**Sites Operations Plan:** Means the Sites Reservoir Operations Plan, initially dated \_\_\_, 2025, as such Sites Reservoir Operations Plan may be modified and approved from time to time in accordance with the Sites Authority Policies and this Contract. The initial form of the Sites Reservoir Operations Plan approved by the Reservoir Management Board and the Sites Authority (as applicable) in accordance with the Sites Authority Bylaws is included as [Appendix 8](#).

**Sites Owned Facilities:** Means the new physical infrastructure and capital improvements for the Project to be designed, constructed, commissioned, completed and owned by the Sites Authority, including dams, reservoir(s), pipelines, pump stations, and other facilities necessary or appropriate for providing new water supply and storage including the facilities listed in the Project Specific Information, but excluding facilities designed and built by parties to Partner Agreements that will be used for the Project in accordance with such Partner Agreements, Partner Facilities and the real property required for the Project, and as further described in [Exhibit 1](#) to [Appendix 2](#).

**Sites Water:** Means water that is appropriated under the Sites Water Right.

**Sites Water Right:** Means the water right obtained and owned by the Sites Authority for the Project.

**[Sites Water Right Development Period:](#)** Means the time allowed by the California State Water Resources Control Board for Sites Authority to construct the Project and put Sites Water to beneficial use. The Sites Water Right identifies this time as XX years (or YY date), which could be extended upon approval by the California State Water Resources Control Board in the future.

**State:** Means the State of California, including DWR, the California Water Commission, California Department of Fish and Wildlife, and all other applicable departments and agencies thereof.

**State and Federal Contracts:** Means the Public Benefit Agreements and the Reclamation Partnership Agreement, or each of them as the context requires.

**State and Federal Operations Agreement:** Means the [Sites/DWR/Reclamation Coordinated Operations Agreement], dated \_\_\_, [2025], as such State and Federal Operations Agreement may be modified from time to time.

**State Water Project:** Means the State Water Resources Development System as defined in Section 12931 of the California Water Code.

**State Water Project Facilities:** Means those facilities specified in Sections 12931 and 12938 of the California Water Code.

**Storage Allocation:** Means the maximum actual capacity allocated to a Storage Partner for storing Water in the Project Facilities, measured and determined from time to time in accordance with the Sites Operations Plan.

**Storage Opportunity Request Form:** Has the meaning given in Section 4.4.2.

**Storage Partners:** The governmental agencies, water organizations and others who have funded and received a Storage Allocation in Sites Reservoir and the resulting water supply or water supply related benefits from the Project. Storage Partners ~~could~~ include Participants, the State, and Reclamation.

**Stored Water:** Means the amount of Water that a Storage Partner has stored in the Project Facilities at any given time, as measured from time to time by the Sites Authority in accordance with the Sites Operations Plan.

**SWP Participants:** Means those Participants listed in the Project Specific Information which have elected to pay Project Costs through the Acquirer in connection with the State Water Project.

**Total Participant Obligation:** Means, with respect to a Participant, the sum of (i) such Participant's cash deposit and (ii) the amount of the Participant Fixed Project Costs to be financed from the proceeds of a proposed Sites Financing, if any, as set forth in such Participant's Notice of Self-Funding Election.

**Variable O&M Costs:** Means the operation, maintenance, power (including pumping), carriage costs, power interference costs, replacement and other costs, including O&M Costs and costs and expenses, including funding of reserves in accordance with the Sites Authority Policies, to the Sites Authority under this Contract and wheeling costs [on a per Acre-foot basis] to account for the use of Partner Facilities, and incurred by the Sites Authority in connection with the Project in an amount which is dependent upon and varies with the amount of Sites Water diverted, stored or released from the Project Facilities to the Participants. Variable O&M Costs exclude any such costs paid under the State and Federal Contracts.

**Water:** Means Sites Water or Other Water conveyed through, or stored by, Storage Partners in Project Facilities.

**Wind-Up Resolution:** Has the meaning given in Section 11.1.2.

**Winding-Up Agent:** Has the meaning given in Section 11.1.2.

## APPENDIX 2

### PROJECT SPECIFIC INFORMATION

<b>Effective Date</b> Section 2.1.2	<input type="checkbox"/> [Note: To be inserted as of the signature and delivery date of the last executing and delivering Participant under Section 2.1.1]
<b>Base Facilities</b> Appendix 1	<ul style="list-style-type: none"> <li>▪ Sites Reservoir</li> <li>▪ Sites Dam</li> <li>▪ Golden Gate Dam</li> <li>▪ Sites saddle dams/dikes</li> <li>▪ Terminal Regulating Reservoir</li> <li>▪ Terminal Regulating Reservoir Pumping Generating Plant</li> <li>▪ Funks Reservoir</li> <li>▪ Portion of Glenn Colusa Irrigation District Main Canal from the Hamilton City Pump Station to the Terminal Regulating Reservoir</li> <li>▪ Portion of Tehama-Colusa Canal from Red Bluff Diversion to Funks Reservoir</li> <li>▪ Funks Pumping Generating Plant</li> <li>▪ Power transmission lines</li> <li>▪ Electrical substations</li> <li>▪ Sites Lodoga Bridge</li> <li>▪ Other support facilities <ul style="list-style-type: none"> <li>• Pipelines (Terminal Regulating Reservoir, Funks)</li> <li>• Maxwell Intertie Pipeline</li> <li>• Inlet/outlet tower</li> <li>• Transition manifold</li> <li>• Maintenance and storage building</li> <li>• Administration and operations building</li> <li>• Recreation areas including day use boat ramp</li> </ul> </li> </ul>
<b>Downstream Facilities</b> Appendix 1	<ul style="list-style-type: none"> <li>▪ Dunnigan Pipeline and associated energy dissipation facility</li> <li>▪ Portion of Tehama-Colusa Canal from Funks Reservoir to the terminus of the Tehama-Colusa Canal</li> <li>▪ Colusa Basin Drain south of Balsdon Weir</li> <li>▪ Knights Landing Outfall Gates</li> <li>▪ Knights Landing Ridge Cut</li> <li>▪ Wallace Weir</li> </ul>
<b>Partner Agreements</b> Appendix 1	<ul style="list-style-type: none"> <li>▪ Partner Agreement between the Sites Authority and Tehama-Colusa Canal Authority, dated <input type="checkbox"/>.</li> <li>▪ Partner Agreement between the Sites Authority and Glenn-Colusa Irrigation District, dated <input type="checkbox"/>.</li> </ul>

<b>Sites Owned Facilities</b>	<ul style="list-style-type: none"> <li>▪ Sites Reservoir</li> <li>▪ Sites Dam</li> <li>▪ Golden Gate Dam</li> <li>▪ Sites saddle dams/dikes</li> <li>▪ [Terminal Regulating Reservoir]</li> <li>▪ Terminal Regulating Reservoir Pumping Generating Plant</li> <li>▪ Funks Pumping Generating Plant</li> <li>▪ Other support facilities                             <ul style="list-style-type: none"> <li>• Pipelines (Terminal Regulating Reservoir, Funks)</li> <li>• Maxwell Intertie Pipeline</li> <li>• Inlet/outlet tower</li> <li>• Transition manifold</li> <li>• Maintenance and storage building</li> <li>• Administration and operations building</li> <li>• Recreation areas including day use boat ramp</li> </ul> </li> <li>▪ Dunnigan Pipeline and associated energy dissipation facility</li> </ul>			
<b>Interim Agreements</b>	<ul style="list-style-type: none"> <li>▪ Phase 1 Project Agreement dated November 21, 2016</li> <li>▪ 2019 Reservoir Project Agreement dated April 1, 2019</li> <li>▪ First Amendment to 2019 Reservoir Project Agreement dated January 1, 2020</li> <li>▪ Second Amendment to 2019 Reservoir Project Agreement dated July 1, 2020</li> <li>▪ Third Amendment to 2019 Reservoir Project Agreement dated January 1, 2022</li> </ul>			
<b>Sites Authority Policies</b> Appendix 1	<ul style="list-style-type: none"> <li>▪ Accounting Policy, dated [July 26, 2022]</li> <li>▪ Accounts Payable Approval Policy, dated [May 2, 2022]</li> <li>▪ Budget Policy, dated [December 16, 2022]</li> <li>▪ Debt Management Policy, dated [November 21, 2022]</li> <li>▪ Funding Policy, dated [August 3, 2020]</li> <li>▪ Investment Policy, dated [May 19, 2023]</li> <li>▪ Procurement and Contract Policy, dated [December 16, 2022]</li> <li>▪ Real Property and Land Management Policy, dated [May 25, 2022]</li> <li>▪ Records Management Policy, dated [December 16, 2022]</li> <li>▪ [WIFIA Reserve Policy], dated [November 21, 2022]</li> <li>▪ Local CEQA Guidelines, dated [March 25, 2019]</li> </ul>			
<b>Non-Participant Parties and Address for Notices</b> Section 15.3	<b>Party</b>	<b>Notice Details</b>		
	Sites Authority	[INSERT NOTICE DETAILS]		
	DWR / Acquirer	[INSERT NOTICE DETAILS]		
<b>Participants, Address for Notices and Delivery Point</b>	<b>Participant</b>	<b>Notice Details</b>	<b>Delivery Point</b>	<b>Payment Election</b>
	Antelope Valley-East Kern WA	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Statement of Charges]

*Sites Project Authority – Benefits & Obligations Contract – Sites Reservoir Project*

Section 15.3	City of American Canyon	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Rates and Charges]
	Coachella Valley WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Statement of Charges]
	Colusa County	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Land Based Charges]
	Colusa County WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Land Based Charges]
	Cortina WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Land Based Charges]
	Davis WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Land Based Charges]
	Desert WA	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Statement of Charges]
	Dunnigan WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Land Based Charges]
	Glenn-Colusa ID	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Rates and Charges]
	Irvine Ranch WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Rates and Charges]
	LaGrande WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Land Based Charges]
	Metropolitan Water District of SC	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Rates and Charges]

*Sites Project Authority – Benefits & Obligations Contract – Sites Reservoir Project*

	Reclamation District 108	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Land Based Charges]
	Rosedale-Rio Bravo WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Rates and Charges]
	San Bernardino Valley Municipal WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Statement of Charges]
	San Geronio Pass WA	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Statement of Charges]
	Santa Clara Valley WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Rates and Charges]
	Santa Clarita Valley WA	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Statement of Charges]
	Westside WD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Land Based Charges]
	Wheeler Ridge – Maricopa WSD	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Payment Source Set Forth in Appendix 7C-2]
	Zone 7 WA	[INSERT NOTICE DETAILS]	[TO BE INSERTED]	[Rates and Charges]
<b>SWP Participants</b> Section 1.3	Antelope Valley-East Kern WAC Coachella Valley WD Desert WA San Bernardino Valley Municipal WD San Geronio Pass WA Santa Clarita Valley Water Agency			
<b>Sites Authority Payment Information</b>	<input type="checkbox"/> [Note: To be inserted]			



<b>Participant Capacity Interest and Share</b>  Appendix 1  <b>[Note: Percentages to be completed based on the final financial model and commitments by Participants]</b>	Participant	Base Facilities Capacity Interest	Downstream Facilities Capacity Share
	Antelope Valley-East Kern WA	[INSERT %]	[INSERT %]
	City of American Canyon	[INSERT %]	[INSERT %]
	Coachella Valley WD	[INSERT %]	[INSERT %]
	Colusa County	[INSERT %]	[INSERT %]
	Colusa County WD	[INSERT %]	[INSERT %]
	Cortina WD	[INSERT %]	[INSERT %]
	Davis WD	[INSERT %]	[INSERT %]
	Desert WA	[INSERT %]	[INSERT %]
	Dunnigan WD	[INSERT %]	[INSERT %]
	Glenn-Colusa ID	[INSERT %]	[INSERT %]
	Irvine Ranch WD	[INSERT %]	[INSERT %]
	LaGrande WD	[INSERT %]	[INSERT %]
	Metropolitan Water District of SC	[INSERT %]	[INSERT %]
	Reclamation District 108	[INSERT %]	[INSERT %]
	Rosedale-Rio Bravo WD	[INSERT %]	[INSERT %]
	San Bernardino Valley Municipal WD	[INSERT %]	[INSERT %]
	San Geronio Pass WA	[INSERT %]	[INSERT %]

Sites Project Authority – Benefits & Obligations Contract – Sites Reservoir Project

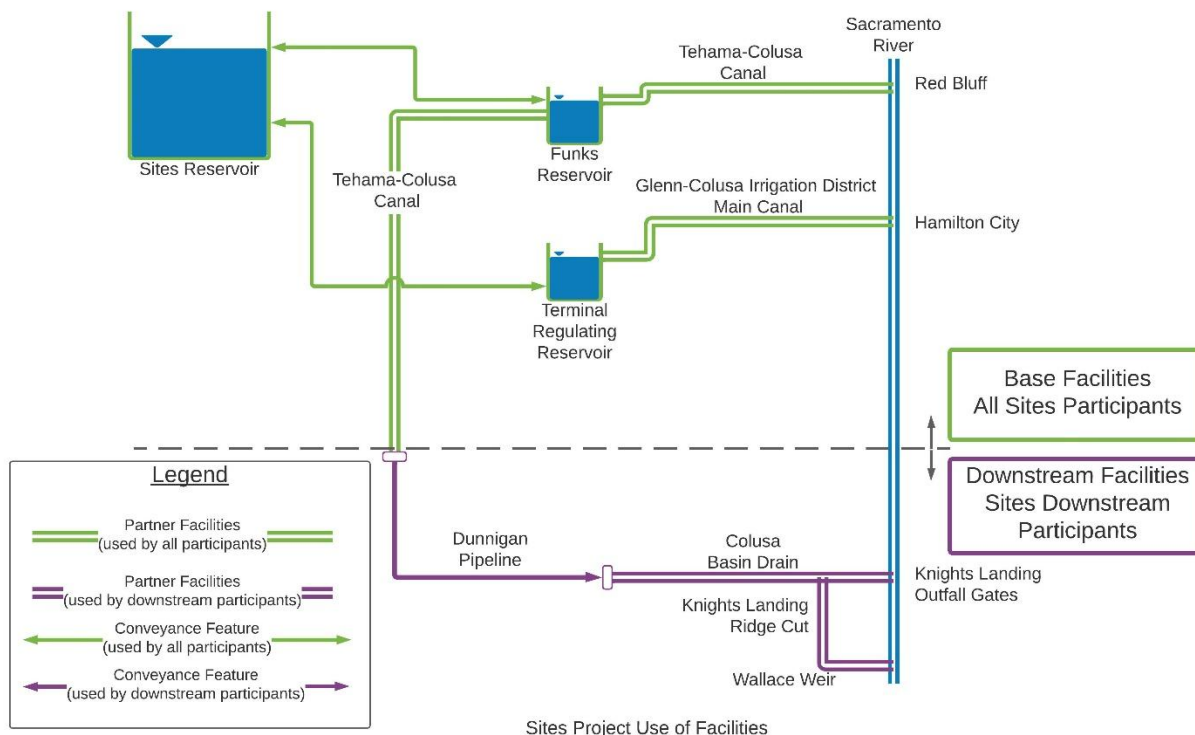
	Santa Clara Valley WD	[INSERT %]	[INSERT %]
	Santa Clarita Valley WA	[INSERT %]	[INSERT %]
	Westside WD	[INSERT %]	[INSERT %]
	Wheeler Ridge – Maricopa WSD	[INSERT %]	[INSERT %]
	Zone 7 WA	[INSERT %]	[INSERT %]
<b>Total</b>		[INSERT %]	[INSERT %]
<b>State and Federal Capacity Interest</b> Appendix 1	<b>Party</b>	<b>Base Facilities Capacity Interest</b>	<b>Downstream Facilities Capacity <del>Interest</del> <u>Share</u></b>
	State (CDFW)	[INSERT %]	[INSERT %]
	Reclamation	[INSERT %]	[INSERT %]
<b>Total</b>	Total	[INSERT %]	[INSERT %]
<b>Total with Participant Capacity Interest and <u>Share and</u> State and Federal Capacity Interest <u>and Share</u></b>		100.00%	100.00%
<b>Financing Participation Percentage</b> Appendix 1  <b>[Note: Financing Participation Percentage to be completed with each Sites Financing.]</b>	<b>Participant</b>	<b>Base Facilities Financing Participation Percentage</b>	<b>Downstream Facilities Financing Participation Percentage</b>
	[INSERT PARTICIPANT]	[INSERT %]	[INSERT %]
	[INSERT PARTICIPANT]	[INSERT %]	[INSERT %]
	[INSERT PARTICIPANT]	[INSERT %]	[INSERT %]
	[INSERT PARTICIPANT]	[INSERT %]	[INSERT %]
	[INSERT PARTICIPANT]	[INSERT %]	[INSERT %]

*Sites Project Authority – Benefits & Obligations Contract – Sites Reservoir Project*

	[INSERT PARTICIPANT]	[INSERT %]	[INSERT %]
	[INSERT PARTICIPANT]	[INSERT %]	[INSERT %]

## EXHIBIT 1 TO APPENDIX 2

### PROJECT FACILITIES MAP



### APPENDIX 3

#### FORM OF SELF-FUNDING NOTICE

##### SITES PROJECT AUTHORITY

##### NOTICE OF SELF-FUNDING ELECTION

\_\_\_\_\_, 20\_\_

\_\_\_\_\_ (the “**Participant**”) is hereby providing the Sites Project Authority (the “Sites Authority”), notice in accordance with Section 5.4 of that certain Benefits & Obligations Contract (the “**Contract**”), dated \_\_\_\_\_, 20\_\_, by and among the Sites Authority and the participants listed therein, including the Participant, of the Participant’s intention to self-fund [all] [a portion] of the obligated portion of the Fixed Project Costs of the Sites Project identified in the Notice of Proposed Sites Financing by the Sites Project Authority, dated \_\_\_\_\_, [20\_\_] (the “**Incurrence Notice**”), delivered by the Sites Authority to the Participant (the “**Participant Fixed Project Costs**”). Unless the context otherwise requires, all capitalized terms, acronyms, abbreviations and terms used in this Appendix have the meanings given in the Contract.

Set forth below is (i) the amount of the cash deposit that the Participant will deposit with the Sites Authority to self-fund Participant Fixed Project Costs and (ii) the amount of the Participant Fixed Project Costs to be financed from the proceeds of the proposed Sites Financing, if any.

- A. Participant cash deposit: \$\_\_\_\_\_
- B. Participant Fixed Project Costs to be financed from the proposed Sites Financing: \$\_\_\_\_\_
- C. Total Participant Obligation: \$\_\_\_\_\_ [sum of A and B]

The Participant acknowledges that the amount specified in clause A above will need to be deposited with the Sites Authority by no later than \_\_\_\_\_ (being the 60<sup>th</sup> day prior to the [Project Obligation Incurrence Date] [the Business Day prior to the scheduled date on which the offering document relating to the Sites Financing is to be made available to potential investors] set forth in the Incurrence Notice), as required by Section 5.4 of the Contract; subject to a grace period of 30 days following such date. If the Participant does not deposit the amount specified in clause A above with the Sites Authority by the expiration of such grace period, the Participant acknowledges that the Participant will then be considered a Financing Participant with respect to the entire portion of the proposed Sites Financing allocable to the Participant and will be obligated to pay the related Sites Financing Costs.

Dated: \_\_\_\_\_, 20\_\_

[Participant Name]

By: \_\_\_\_\_  
[Title of Officer]

## APPENDIX 4

### FORM OF SITES FINANCING INCURRENCE NOTICE

#### SITES PROJECT AUTHORITY

#### NOTICE OF PROPOSED SITES FINANCING BY THE SITES PROJECT AUTHORITY

\_\_\_\_\_, 20\_\_

The Sites Project Authority (the “Sites Authority”) is hereby providing the parties to the Benefits & Obligations Contract, dated \_\_\_\_\_, 20\_\_, with the Sites Authority (the “Contract”), with notice of a proposed Sites Financing by the Sites Authority, as provided for in Section 5.2.1 of the Contract. Unless the context otherwise requires, all acronyms, abbreviations and terms used in this Appendix have the meanings given in the Contract.

- A. Type of Project Obligations: \_\_\_\_\_
- B. Aggregate principal amount of Project Obligations: \$ \_\_\_\_\_
- C. Project components to be financed and/or refinanced: [list components]
- D. Proposed Sites Financing Incurrence Date: \_\_\_\_\_
- E. A description of the proposed financing structure, expected method of sale, expected term, pro-forma cash flows and each Participant’s estimated share of Fixed Project Costs to be financed or refinanced from the proposed Sites Financing is set forth in Schedule A hereto.
- F. Each Participant’s estimated annual Sites Financing Costs related to the proposed Sites Financing is set forth in Schedule B hereto.
- G. The amount of the cash deposit required to be made by each Participant if the Participant elects to self-fund such Project Costs in accordance with Sections 5.4 and 5.5 of the Contract is set forth in Schedule C hereto.

If a Participant intends for the Sites Authority to finance/refinance the Project components listed in clause C above, the Participant does not need to take any further action.

If a Participant intends to self-fund all or a portion of the applicable Project Costs described in clause E above such Participant must provide the Sites Authority with a Self-Funding Notice on or prior to \_\_\_\_\_, 20\_\_ (on or before the 90<sup>th</sup> day prior to the anticipated [Sites Financing Incurrence Date] [the Business Day prior to the scheduled date on which the offering document relating to the Sites Financing is to be made available to potential investors]) all as provided in Section 5.4.2 of the Contract. A form of the Self-Funding

Sites Project Authority  
Sites Reservoir Project

A-4-1

Benefits & Obligations Contract  
Appendix 4 (Form Sites Financing Notice)  
BOARD REPORT DRAFT – ~~April 15~~ December 19,

2025

~~60755503.v78~~ [60755503.v79](#)



*Sites Project Authority – Benefits & Obligations Contract – Sites Reservoir Project*

Notice is attached to the Contract as Appendix 3. In addition, such Participant must deposit the amount of such self-funding with the Sites Authority by no later than \_\_\_\_\_, 20\_\_\_\_, in accordance with Section 5.5.2 of the Contract; subject to a grace period of 30 days following such date.

[ADDITIONAL TEXT MAY BE ADDED AS NEEDED]

SITES PROJECT AUTHORITY

By: \_\_\_\_\_

[Title of Officer]

## APPENDIX 5-1

### FORM OF PARTICIPANT OPINION LETTER

[This opinion shall be delivered upon execution of the Sites Reservoir Benefits & Obligations Contract]

[ ], 202[ ]  
Sites Authority  
[ADDRESS]

[United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460]

Ladies and Gentlemen:

We are acting as [general/special] counsel to **[PARTICIPANT]** (the "Participant") in connection with the Sites Reservoir Benefits & Obligations Contract (the "Contract"), between the Sites Authority and Participant, and have acted as general counsel to the Participant in connection with the matters referred to in this opinion letter (this "Opinion"). As such counsel, we have examined and are familiar with (i) documents relating to the existence, organization and operation of the Participant provided to us by the Participant, (ii) certifications by officers of the Participant, (iii) all necessary documentation of the Participant relating to the authorization, execution and delivery of the Contract, and (iv) an executed counterpart of the Contract. Terms used herein and not otherwise defined have the respective meanings set forth in the Contract.

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

1. The Participant is a \_\_\_\_\_, duly created, organized and existing under the laws of the State of California and duly qualified to [furnish water service within its boundaries].
2. The Participant has legal right, power and authority to enter into the Contract and to carry out and consummate all transactions reasonably contemplated in or by the Contract, and the Participant has complied with the provisions of Applicable Law and Governmental Approvals relating to such transactions.

3. The Contract has been duly authorized, executed and delivered by the Participant, is in full force and effect as to the Participant in accordance with its terms and, subject to the qualifications set forth in the second to the last paragraph of this Opinion, and assuming

Sites Project Authority  
Sites Reservoir Project

A-5-1

Benefits & Obligations Contract  
Appendix 5-1 (Form Participant Opinion)  
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~~60755503.v78~~60755503.v79

that the Sites Authority has all requisite power and authority, and has taken all necessary action, to authorize, execute and deliver such Contract, the Contract constitutes the valid and binding obligation of the Participant.

4. The obligations of the Participant to make payments under the Contract from the source of payment identified in Appendix 7[A][B][C-1][C-2] of the Contract, dated [ ], 2025, executed by the Participant, or other lawfully available funds as provided in the Contract is a valid, legal and binding obligation of the Participant enforceable in accordance with its terms.

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

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

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

[8. The Participant is not entitled to claim governmental immunity under the California Government Claims Act, or under any ordinance, regulation or other legislative action of the Participant in any breach of contract action under the Contract.]

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

Very truly yours,

**APPENDIX 5-2**

**FORM OF ACQUIRER OPINION LETTER**

[This opinion shall be delivered upon execution of the Sites Reservoir Benefits & Obligations Contract]

[DWR to provide form]

## **APPENDIX 6**

### **FORM OF SITES AUTHORITY OPINION LETTER**

[This opinion shall be delivered to the Sites Authority upon execution of the Sites Reservoir Benefits & Obligations Contract]

[ ], 202[ ]

Sites Authority  
[ADDRESS]

[United States Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460]

Ladies and Gentlemen:

We are acting as [special/general] counsel to the Sites Authority (the "Sites Authority") in connection with that certain Sites Reservoir Benefits & Obligations Contract, dated as of [ ], 202[ ] (the "Contract"), between the Sites Authority and each of the Participants identified on Exhibit 1 attached hereto (each a "Participant") in connection with the matters referred to in this opinion letter (this "Opinion"). As such counsel, we have examined and are familiar with (i) documents relating to the existence, organization and operation of the Sites Authority provided to us by the Sites Authority, (ii) certifications by officers of the Sites Authority, (iii) all necessary documentation of the Sites Authority relating to the authorization, execution and delivery of the Contract, and (iv) an executed counterpart of the Contract. Terms used in this Opinion and not otherwise defined have the respective meanings set forth in the Contract.

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

1. The Sites Authority is a joint exercise of powers agency, duly created, organized and existing under the laws of the State of California.
2. The Sites Authority has legal right, power and authority to enter into the Contract and to carry out and consummate all transactions contemplated in the Contract, and the Sites Authority has complied with the provisions of Applicable Law and Governmental Approvals relating to such transactions.

Sites Project Authority  
Sites Reservoir Project

A-6-1 Benefits & Obligations Contract  
Appendix 6 (Form Sites Authority Opinion)  
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~~60755503.v78~~ 60755503.v79

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

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

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

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

[7. The Sites Authority is not entitled to claim governmental immunity under the California Government Claims Act, or under any regulation or other legislative action of the Sites Authority in any breach of contract action under the Contract.]

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

Very truly yours,

**EXHIBIT 1 TO APPENDIX 6**

Participants

[INSERT PARTICIPANT]

[INSERT PARTICIPANT]

[INSERT PARTICIPANT]

[INSERT PARTICIPANT]



**APPENDIX 7**  
**PAYMENT APPENDIX**

Appendix 7A Rates and Charges

Appendix 7B Statement of Charges

Appendix 7C Land Based Charges

**APPENDIX 7A**  
**RATES AND CHARGES**

This Appendix 7A (this “Appendix”) to the Benefits and Obligations Contract (the “Contract”), dated as of \_\_\_, 2025, by and between the entities listed in Appendix 2 to the Contract and the Sites Project Authority (the “Sites Authority”) sets forth the source of payment of the Participant executing this Appendix for amounts due to the Sites Authority in accordance with the Contract and certain other terms supplementary to the Contract.

Unless the context otherwise requires, all acronyms, abbreviations and terms used in this Appendix have the meanings given in the Contract.

**A. Source of Payment.** The Participant shall make payments under the Contract as an operation and maintenance expense of the Participant, as determined in accordance with Generally Accepted Accounting Principles, solely from, and prior to other payments other than operation and maintenance expenses, from the revenues of the Participant’s water system. Nothing in the Contract shall be construed as prohibiting the Participant from using any other funds for purposes of satisfying any provisions of this Contract.

**B. Participant Rates and Charges.** To the fullest extent permitted by law, the Participant will fix and prescribe, at the commencement of the fiscal year of the Participant (“**Participant Fiscal Year**”), rates and charges for the Participant’s water system which, together with any other lawfully available revenues of the Participant, and, if applicable, taking into account amounts transferred from a rate stabilization fund or other similar fund of the Participant, are reasonably expected to be sufficient to pay the Participant’s operation and maintenance expenses for such Participant Fiscal Year, including but not limited to amounts due to the Sites Authority under the Contract.

This Appendix is supplemental to the terms of the Contract, and, in the event of a conflict between the provisions of this Appendix and the provisions of the Contract, the terms of this Appendix shall govern.

Dated: \_\_\_, 202\_\_

[PARTICIPANT]

By: \_\_\_\_\_

**APPENDIX 7B**  
**STATEMENT OF CHARGES**

This Appendix 7B (this “Appendix”) to the Benefits and Obligations Contract (the “Contract”), dated \_\_\_\_, 2025, by and between the entities listed therein and the Sites Project Authority (the “Sites Authority”) sets forth the source of payment of the Participant executing this Appendix for amounts due to the Sites Authority pursuant to the Contract and certain other terms supplementary to the Contract.

Unless the context otherwise requires, all acronyms, abbreviations and terms used in this Appendix have the meanings given in the Contract.

**A. Source of Payment.** The Participant as a whole is obligated to pay to the Sites Authority the payments becoming due under the Contract, notwithstanding any individual default by its constituents or others in the payment to the Participant of assessments, tolls or other charges levied by the Participant.

If in any year the Participant fails or is unable to raise sufficient funds by other means, the governing body of the Participant shall levy upon property in the Participant not exempt from taxation, a tax or assessment (the “**SWP Tax**”) sufficient to provide for all payments under the Contract then due or to become due within that year and that appear on the statement of charges provided to the Participant by the State of California Department of Water Resources (“**DWR**”).

**B. Enforcement of Collection of SWP Tax.** To the fullest extent permitted by law and pursuant to the terms of the Participant’s Water Supply Contract with DWR, the Participant shall enforce and collect, or provide for the enforcement and collection of, the SWP Tax.

This Appendix is supplemental to the terms of the Contract, and, in the event of a conflict between the provisions of this Appendix and the provisions of the Contract, the terms of this Appendix shall govern.

Dated: \_\_\_\_, 2025

[PARTICIPANT]

By: \_\_\_\_\_

**APPENDIX 7C**  
**LAND BASED CHARGES**

(See attached)

**[LAND BASED CHARGES – DISTRICT APPENDIX]**

**APPENDIX 7C-1**

**LAND BASED CHARGES (DISTRICT IMPOSED)**

This Appendix 7C-1 (this “Appendix”) to the Benefits and Obligations Contract (the “Contract”), dated as of \_\_\_, 2025, by and between the entities listed therein and the Sites Project Authority (the “Sites Authority”) sets forth the source of payment of the Participant executing this Appendix for amounts due to the Sites Authority pursuant to the Contract and certain other terms supplementary to the Contract.

Unless the context otherwise requires, all acronyms, abbreviations and terms used in this Appendix have the meanings given in the Contract.

**A. Source of Payment.** The Participant shall make payments under the Contract as an operation and maintenance expense of the Participant, as determined in accordance with Generally Accepted Accounting Principles. Such payments shall be paid from the revenues of the Participant’s water system, including any land based charges. Nothing in the Contract shall be construed as prohibiting the Participant from using any other funds for purposes of satisfying any provisions of this Contract.

**B. Participant Revenues.** To the fullest extent permitted by law, the Participant shall fix, prescribe and collect, at the commencement of the fiscal year of the Participant (the “Participant Fiscal Year”), rates and charges for the Participant’s water system which, together with any other lawfully available revenues of the Participant, and, if applicable, taking into account amounts transferred from a rate stabilization fund or other similar fund of the Participant, are reasonably expected to be sufficient to pay all amounts owed to the Sites Authority after the application of land based charges described in C below reasonably expected to be collected and applied as described in C below .

**C. Participant Land Based Charges.** During each Participant Fiscal Year, to the fullest extent permitted by law, the Participant shall levy and collect land based charges in an amount equal to 110% of the amount of the Participant’s Financing Obligations payable during such Participant Fiscal Year and shall apply such land based charges to the payment of the Participant’s Financing Obligations.

This Appendix is supplemental to the terms of the Contract, and, in the event of a conflict between the provisions of this Appendix and the provisions of the Contract, the terms of this Appendix shall govern.

Dated: \_\_\_\_\_, 2025

[PARTICIPANT]

By: \_\_\_\_\_



**[LAND BASED CHARGES WRMWD APPENDIX]**

APPENDIX 7C-2

LAND BASED CHARGES  
(WHEELER RIDGE-MARICOPA WATER  
STORAGE DISTRICT IMPOSED)

This Appendix 7C-2 (this “Appendix”) to the Benefits and Obligations Contract (the “Contract”), dated as of \_\_\_, 2025, by and between the entities listed therein and the Sites Project Authority (the “Sites Authority”) sets forth the exclusive source of payment of the Wheeler Ridge-Maricopa Water Storage District (“WRMWSD”) and exclusive recourse for amounts due to the Sites Authority pursuant to the Contract and certain other terms supplementary to the Contract.

Unless the context otherwise requires, all acronyms, abbreviations and terms used in this Appendix have the meanings given in the Contract.

**A. Source of Payment.** WRMWSD shall make payments due under the Contract solely (i) from special benefit assessments or charges in lieu of assessments (the “Assessments”) levied by WRMWSD on certain parcels of land within WRMWSD (the “Participating Properties”), the owners of which (the “Participating Landowners”) have executed agreements with WRMWSD to participate in the Project (the “Wheeler-Ridge Participating Landowner Benefits and Obligations Contracts”), pursuant to and as authorized by such Wheeler-Ridge Participating Landowner Benefits and Obligations Contracts and applicable law, and (ii) from amounts received by WRMWSD from the Participating Landowners for the provision of water service, water storage and other services with respect to the Project collected under the Wheeler-Ridge Participating Landowner Benefits and Obligations Contracts (collectively, the “Pledged Landowner Revenues”). The Sites Authority shall not have the right of any recourse against the revenues, reserves or other assets of WRMWSD or the Wheeler Ridge-Maricopa Groundwater Sustainability Agency (the “GSA”) or any revenues generated by WRMWSD or the GSA from non-Sites related water service or groundwater management activities provided by WRMWSD or the GSA, other than the Pledged Landowner Revenues. The Sites Authority’s recourse for the failure of WRMWSD to pay WRMWSD’s obligations under the Contract or to comply with the terms of the Contract will only be against the Pledged Landowner Revenues, including amounts received by WRMWSD from WRMWSD’s enforcement of the Assessments and the respective Wheeler-Ridge Participating Landowner Benefits and Obligations Contracts.

**B. Assessments.** During each fiscal year of WRMWSD (the “WRMWSD Fiscal Year”), to the fullest extent permitted by law, WRMWSD shall levy and collect Assessments in an amount equal to 110% of the amount of WRMWSD’s Financing Obligations payable during such WRMWSD Fiscal Year and shall apply such Assessments to the payment of WRMWSD’s Financing Obligations.

**C. Service Revenues.** To the fullest extent permitted by law, WRMWSD shall fix, prescribe and collect, during the WRMWSD Fiscal Year, amounts under the Wheeler-Ridge Participating Landowner Benefits and Obligations Contracts, which are reasonably



expected to be sufficient to pay amounts coming due under the Contract (net of WRMWSD Financing Obligations that are reasonably expected to be paid with the proceeds of the Assessments) for such WRMWSD Fiscal Year.

**D. Enforcement of Wheeler-Ridge Participating Landowner Benefits and Obligations Contracts.** WRMWSD shall at all times have Wheeler-Ridge Participating Benefits and Obligations Contracts in place with each of the Participating Landowners. To the fullest extent permitted by law, WRMWSD covenants and agrees that WRMWSD shall enforce the WRMWSD's rights under each Wheeler-Ridge Participating Landowner Benefits and Obligations Contract against the respective Participating Landowners, collect amounts due in a timely manner and shall take all necessary actions permitted by the respective Wheeler-Ridge Participating Landowner Benefits and Obligations Contracts, including the discontinuance of all Sites water to parcels of land owned by those specific Participating Landowners in default under the respective Wheeler-Ridge Participating Landowner Benefits and Obligations Contracts, and by law to collect in such time and amounts Assessments and amounts payable pursuant to the Wheeler-Ridge Participating Landowner Benefits and Obligations Contracts as shall permit WRMWSD to pay its obligations under the Contract in accordance with the terms of the Contract.

This Appendix is supplemental to the terms of the Contract, and, in the event of a conflict between the provisions of this Appendix and the provisions of the Contract, the terms of this Appendix shall govern.

Dated: \_\_\_\_\_, 2025

WHEELER RIDGE-MARICOPA  
WATER STORAGE DISTRICT

By: \_\_\_\_\_

**APPENDIX 8**

**INITIAL SITES OPERATIONS PLAN**

[To be attached]

<b>Summary report:</b> <b>Litera Compare for Word 11.9.1.1 Document comparison done on</b> <b>12/15/2025 10:48:58 PM</b>	
<b>Style name:</b> Default Style	
<b>Intelligent Table Comparison:</b> Active	
<b>Original filename:</b> Sites - Draft Benefits and Obligations Contract (Board Report 4.15.2025).docx	
<b>Modified filename:</b> Clean- Sites - Draft Benefits and Obligations Contract (12.19.2025).docx	
<b>Changes:</b>	
<u>Add</u>	297
<del>Delete</del>	246
<del>Move From</del>	17
<u>Move To</u>	17
<u>Table Insert</u>	0
<del>Table Delete</del>	0
<u>Table moves to</u>	0
<del>Table moves from</del>	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
<b>Total Changes:</b>	<b>577</b>

# Draft Joint Powers Agreement 03-01B

**[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. **Notwithstanding anything to the contrary in the Bylaws, the Benefits & Obligations Contract, or any other Authority document, record or instrument concerning Project operations or governance, as the same may now exist or be amended from time to time, in no event shall the** Authority 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, (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, and (iv) no amendment shall be made to Section 2.6 of this Agreement, or to any restatement of this Agreement, except with the express written consent of GCID, RD 108 and TCCA. 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

# Draft Bylaws Attachment 03-01C

**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.

Notwithstanding anything in the foregoing to the contrary, in the event of any conflict between the Agreement and either the Bylaws or the Benefits & Obligations Contract, the Agreement shall control as to Section 2.6 of the Agreement, which provides as follows:

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. Notwithstanding anything to the contrary in the Bylaws, the Benefits & Obligations Contract, or any other Authority document, record or instrument concerning Project operations or governance, as the same may now exist or be amended from time to time, in no event shall the Authority 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.

DRAFT



Draft Ops Plan Attachment 03-01D



# Reservoir Operations Plan

Version 2.2

DRAFT FOR DISTRIBUTION

December 15, 2025

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## Version History

Version	Description	Date of Revision	Key Changes From Prior Version
1	Final	1/17/2022	--
2.0	Draft; Not approved by Authority Board	5/24/2024	Once finalized, will supersede and entirely replace Version 1; Refers and utilizes the Project adopted by the Authority Board in November 2023; Prepared for the Sites Water Right proceeding process
2.1	Draft; Not yet approved by Authority Board	5/12/2025	Once finalized, will supersede and entirely replace Version 1 and 2.0. Builds upon Version 2.0 to include more information relative to Storage Partner benefits and how those are realized in actual operations. Updated to reflect the Oct 2024 Operations ITP conditions and additional proposed water right terms through the date of release of this document. A preliminary draft of V2.1 was provided for review by the Operations and Engineering Workgroup on 8/9/2024.
2.2	Draft; Not yet approved by Authority Board	12/15/2025	Once finalized, will supersede and entirely replace all prior versions. Addresses comments received on Version 2.1.

## Acronyms and Abbreviations

AF	acre-feet
Authority	Sites Project Authority
BiOp	Biological Opinion
CDFW	California Department of Fish and Wildlife
cfs	cubic feet per second
CBD	Colusa Basin Drain
CCWD	Contra Costa Water District
CNRFC	California-Nevada River Forecast Center
CVP	Central Valley Project
D-1641	Decision 1641
Delta	Sacramento-San Joaquin River Delta
DO	Dissolved oxygen
DWR	California Department of Water Resources
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
GCID	Glenn-Colusa Irrigation District
I/O	inlet/outlet
MAF	million acre-feet
MOU	Memorandum of Understanding
NDWA	North Delta Water Agency
NOD	North-of-Delta
Operations Plan	Sites Reservoir Operations Plan
PGP	Pumping Generating Plant
RBPP	Red Bluff Pumping Plant
Reclamation	Bureau of Reclamation
SCADA	Supervisory Control and Data Acquisition
SOD	South-of-Delta
SWC	State Water Contractors
SWP	State Water Project
SWRCB	State Water Resources Control Board
TAF	thousand acre-feet
TC Canal	Tehama-Colusa Canal
TCCA	Tehama-Colusa Canal Authority
TRR	Terminal Regulating Reservoir



## Definition of Terms

Key terms used in this Reservoir Operations Plan are defined below:

- **Applicable Laws** – Means applicable federal, state and local laws, ordinances, rules, regulations, orders, and policies relating to the Project.
- **Base Facilities** – Means the Sites owned facilities or other facilities available to all Storage Partners including those listed in the Project Specific Information of each Storage Partner’s respective contract, as modified from time to time.
- **Base Facilities Capacity Interest** – Means the Capacity Interest of each Storage Partner in the Base Facilities specified in the Project Specific Information of the Storage Partner’s respective contract.
- **Capacity Interest** – Means the undivided capacity right of each Storage Partner to store, convey and divert Sites Water in each of the Base Facilities and Downstream Facilities granted by the Sites Authority and owned by the Storage Partners in accordance with their respective contract, and in the pro-rata share set out for each Storage Partner in their respective contract and subject to the Sites Water Right, Applicable Law and Governmental Approvals.
- **Delivery Point** – Means with respect to each Storage Partner, the delivery point specified in the Project Specific Information in their respective contract.
- **Delta Export Facilities** – Means the Harvey O. Banks Delta Pumping Plant including Clifton Court Forebay, owned and operated by the California Department of Water Resources and the Jones Pumping Plant owned and operated by the Bureau of Reclamation.
- **Downstream Facilities** – Means the Sites Owned Facilities or other facilities that are utilized by selected Storage Partners listed in the Project Specific Information of each Storage Partner’s respective contract, as modified from time to time.
- **Downstream Facilities Capacity Share** – Means the capacity share of each Storage Partner applicable to the Downstream Facilities specified in the Project Specific Information of each Storage Partner’s respective contract.
- **Governmental Approvals** – Means any permit, license, consent, concession, court order, grant, franchise, authorization, waiver, certification, exemption, filing, lease, registration or ruling, variance or other approval, guidance, protocol, mitigation agreement, settlement agreement, agreement or memorandum of agreement/understanding, and any revision, modification, amendment, supplement, renewal or extension of any of the foregoing, required by or with any Governmental Entity in order to perform the purposes of this Sites Operations Plan.
- **Governmental Entity** - Means any federal, state, local or foreign government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity other than the Authority.
- **Other Water** – Means water other than Sites Water that a Storage Partner may request the Authority to store in and/or convey through Project facilities.
- **Partner Agreements** – Means any agreement entered into between the Sites Authority and another entity in accordance with which the Sites Authority has the right to convey water to or from the Project, as amended from time to time.

- **Secondary Delivery Point** – A location beyond Funks Reservoir or the Terminal Regulating Reservoir, which, at the request of each Storage Partner, and subject to Applicable Laws and Governmental Approvals, to which the Authority may take actions reasonably practicable to assist Storage Partners in conveying water.
- **Sites Project Authority (Authority)** – A California Joint Powers Authority operating under and by virtue of Section 6500 et seq., of the California Government Code and formed in accordance with the Sites Project Authority Joint Exercise of Powers Agreement, as such agreement may be modified from time to time, established for the purpose of designing, constructing, owning, operating and maintaining the Sites Reservoir Project.
- **Sites Reservoir Operations Plan (Operations Plan)** – Means this Sites Reservoir Operations Plan, including all Attachments, as may be modified from time to time.
- **Sites Reservoir Project (Project)** – Dams, reservoirs, certain associated diversion and conveyance facilities, and other associated facilities, mitigation lands, and Sites Water Right owned and operated by the Authority.
- **Sites Water** – Means water that is appropriated under the Sites Water Right.
- **Sites Water Right** – Means the water right obtained and owned by the Authority for the Project.
- **Storage Allocation** – Means the maximum actual capacity allocated to a Storage Partner for storing Water in the Project facilities, measured and determined from time to time in accordance with the Sites Operations Plan.
- **Storage Partners** – The governmental agencies, water organizations and others who have funded and received a Storage Allocation in Sites Reservoir and the resulting water supply or water supply related benefits from the Project. Storage Partners include local agencies, the State of California, and the Federal Government.
- **Water Year** – Period from October 1 through September 30.
- **Water** – Means Sites Water or Other Water conveyed through, or stored by, Storage Partners in Project Facilities.

# 1.0 Introduction

This Sites Reservoir Operations Plan (Operations Plan) establishes the procedures to be used in managing the water operations of the Sites Reservoir Project (Project). This Operations Plan reflects the Sites Project Authority's (Authority) permits, approvals, and commitments which are specified in other documents. Therefore, Project operations will be consistent with the following (in no particular order):

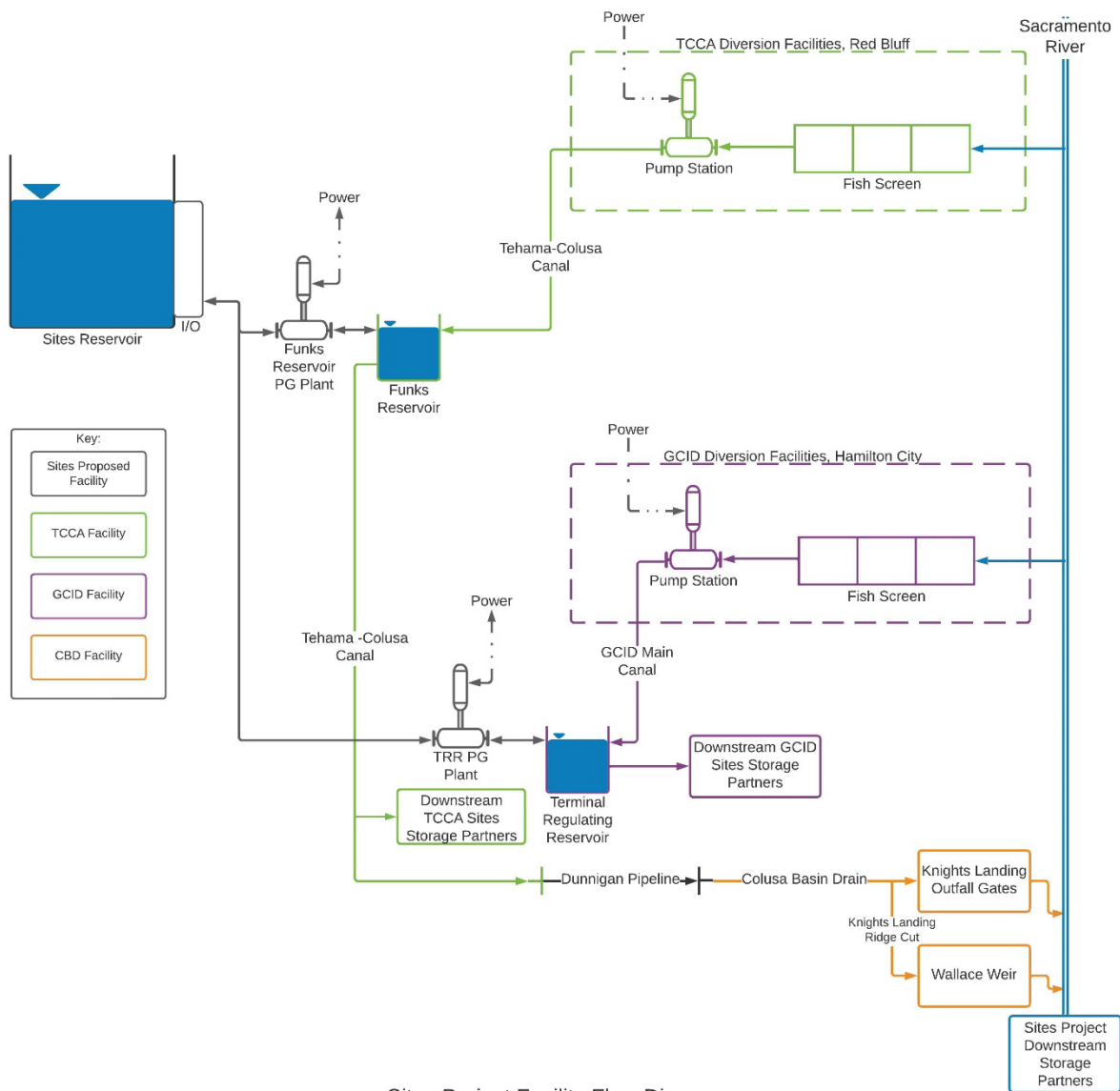
- All Applicable Laws and Governmental Approvals – a few of which are currently in progress and not yet completed or obtained for the purposes of the Project;
- Sites Reservoir Benefits and Obligations Contract (B&O Contract) – a draft of which has been made available but has not yet been finalized or executed;
- Proposition 1 Water Storage Investment Program Contract for Administration of Public Ecosystem Benefits with the California Department of Fish and Wildlife (CDFW) – which has not yet been finalized or executed;
- Proposition 1 Water Storage Investment Program Contract for Administration of Public Recreation and Flood Control Benefits with the DWR – which has not yet been finalized or executed;
- Partnership Agreement with the Bureau of Reclamation (Reclamation) –which has not yet been finalized or executed;
- Partner Agreement with Glenn-Colusa Irrigation District (GCID) – which has not yet been finalized or executed;
- Partner Agreement with Tehama Colusa Canal Authority (TCCA) and Excess Capacity Contract with Reclamation – which have not yet been finalized or executed; and
- Any relevant water operations agreement – the following which have been executed by the Authority and included in Attachment A:
  - Memorandum of Understanding (MOU) Between Colusa County and the Authority Regarding Area of Origin Water Rights Claims to Funks and Stone Corral Creeks, and Related Matters, dated November 22, 2021 (Colusa County MOU);
  - Agreement between the Authority and Contra Costa Water District (CCWD) to Coordinate in the Operations of the Sites Reservoir Project, dated December 20, 2023 (CCWD Agreement);
  - Agreement between the Authority and Maxwell Irrigation District to Avoid Impacts of Sites Reservoir Project to Maxwell Irrigation District Water Rights, dated April 9, 2024 (Maxwell ID Agreement);
  - Memorandum of Understanding Between the North Delta Water Agency (NDWA) and the Authority, dated August 30, 2023 (NDWA MOU); and
  - Settlement Agreement between the Authority, the State Water Contractors (SWC), and DWR, dated June 7, 2024 (Sites/SWC/DWR Settlement Agreement).

- Any relevant water operations agreement – the following which are anticipated or in development and have not yet been executed:
  - Agreement between the Authority and the Colusa Drain Mutual Water Company (Colusa Drain MWC; Anticipated Colusa Drain MWC Agreement); and
  - Operations Agreement between the Authority, Reclamation, and DWR (Anticipated Sites/Reclamation/DWR Operations Agreement).

This Operations Plan is an operating tool to help manage the water operations of the Project and does not take any precedence over Applicable Laws and Governmental Approvals and the agreements identified above. In the event of a conflict between this Operations Plan and Applicable Laws and Governmental Approvals or any of the agreements identified above, the terms of the respective instrument will control. This Operations Plan will be updated periodically to reflect updates to Applicable Laws and Governmental Approvals and the agreements identified above, and to reflect current operational practices as those are further developed and refined over time, as described in Section 12. It is also important to note the following:

1. This Version 2.2 of the Operations Plan supersedes and replaces all prior versions. This Version 2.2 of the Operations Plan, when adopted by the Sites Authority Board of Directors, will also supersede the “Principles for the Storage, Delivery and Sale of Sites Reservoir Project Water” adopted by the Sites Authority Board of Directors on April 21, 2021. This Operations Plan does not bind the Authority to implement certain operations, mitigation measures, or permit terms.
2. The Authority has submitted a water right application to the State Water Resources Control Board (SWRCB) and permit applications to various other agencies. This Operations Plan presents Project operations based on application and water right hearing content and will be adjusted and revised to reflect the final permit terms prior to Project operation.
3. The Project is a wholly separate and distinct water supply project from that of the CVP and SWP. This Operations Plan and the Authority cannot modify, adjust, affect, or otherwise control the operations of the CVP and SWP. Conversely, Reclamation and DWR cannot modify, adjust, affect, or otherwise control the operations of the Project beyond those rights provided to Reclamation and DWR in any of the agreements identified above.
4. This Operations Plan addresses monitoring and measurement of water generally, including losses. Authority staff are developing a separate Measurement and Monitoring Plan which will describe this in detail.

Figure 1 provides an overview schematic of the Project, Project facilities, and related facilities. Figure 2 and Figure 3 show the location of these facilities. Facility descriptions are provided in Attachment B.

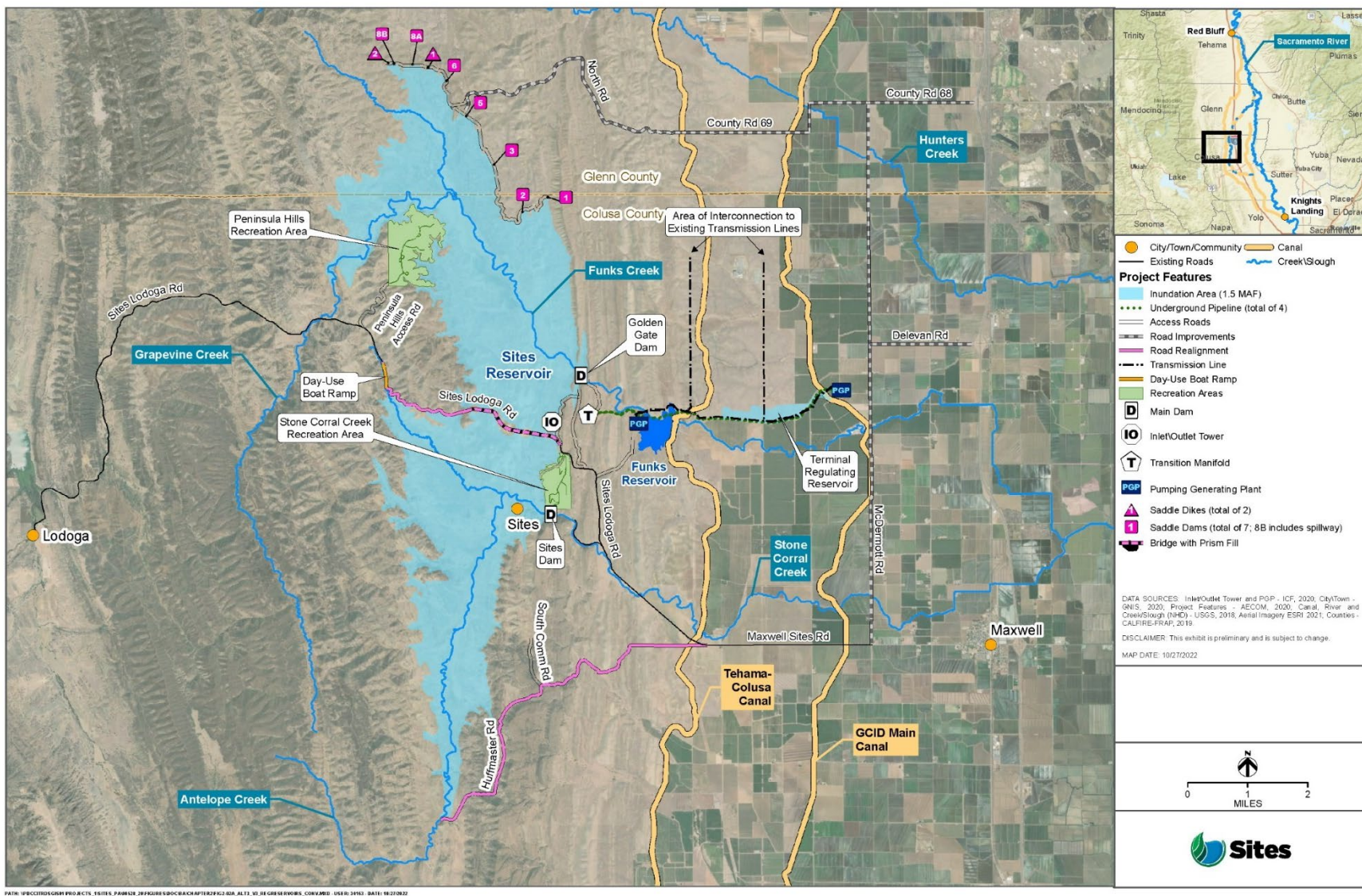


Sites Project Facility Flow Diagram

### FIGURE 1. FACILITY SCHEMATIC

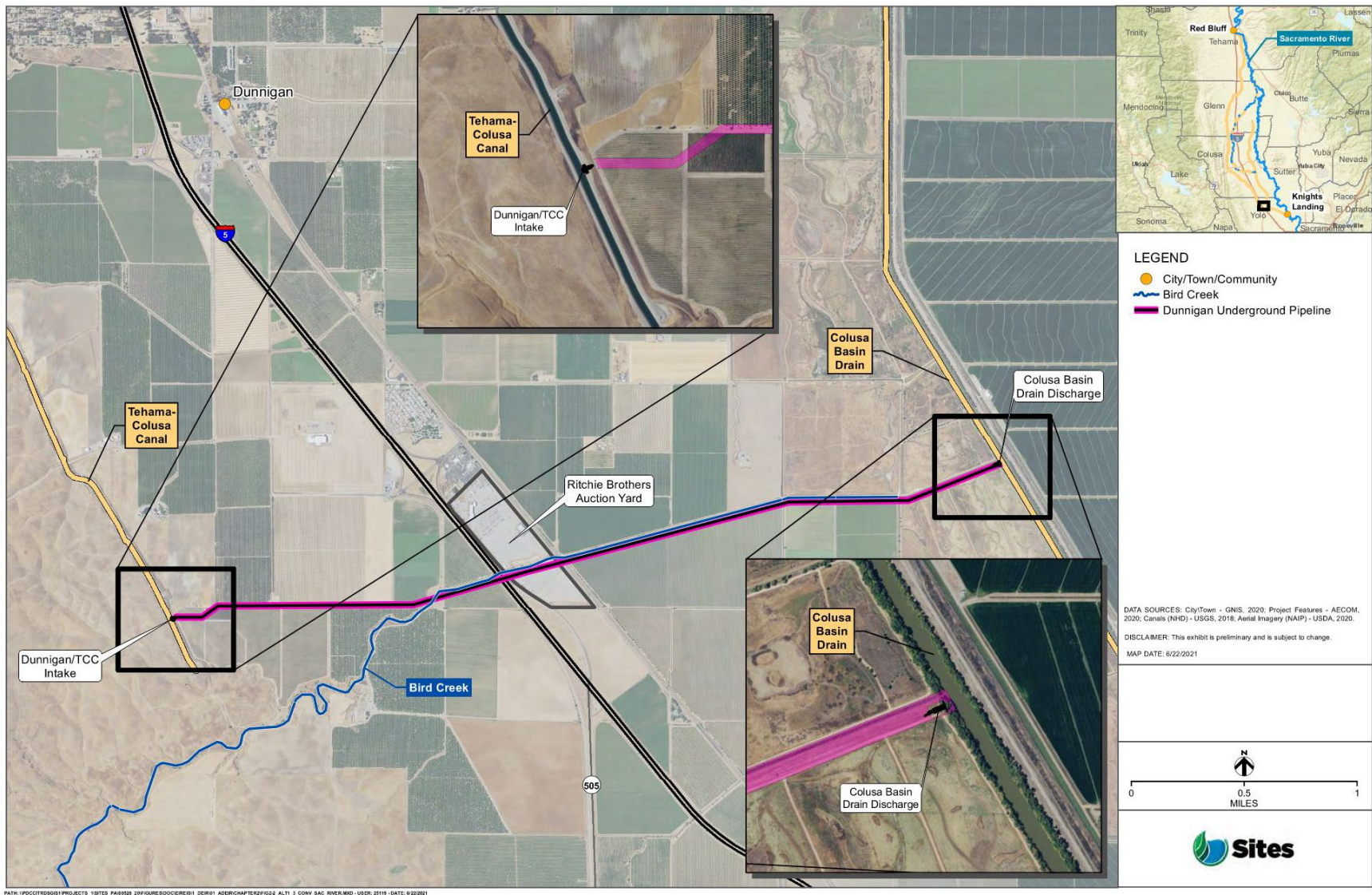
Abbreviations (in alphabetical order): CBD = Colusa Basin Drain; GCID = Glenn-Colusa Irrigation District; I/O = Inlet/Outlet; PG = Pumping / Generating; TCCA = Tehama Colusa Canal Authority; TRR = Terminal Regulating Reservoir

Note: Funks and Stone Corral Creeks not shown in the graphic. See Figure 2 for the creek locations.



**FIGURE 2. REGULATING RESERVOIRS, CONVEYANCE, AND SITES RESERVOIR FACILITIES**





**FIGURE 3. CONVEYANCE TO THE COLUSA BASIN DRAIN**

## 2.0 Operations Planning, Forecasting, and Accounting

### 2.1 Annual Operating Cycle

Figure 4 provides a generalized annual operating cycle. The annual operating cycle depicts the timeline and requirements of components important to operations:

- Diversions from the Sacramento River, Funks Creek, and Stone Corral Creek to Sites Reservoir and primary diversion months
- Timing of releases for north-of-Delta (NOD) and south-of-Delta (SOD) uses
- Timing of exchanges with DWR

The annual operating cycle can be broadly divided into those times when the Project is diverting water to storage, releasing water for NOD purposes which may occur at any time but will likely occur during the summer months, releasing water SOD during July through November in the transfer window,<sup>1</sup> and exchanging water with DWR. Note that operations vary year by year, so there is overlap between potential operations “seasons”; however, the figure shows the primary months for each operation.



**FIGURE 4. ANNUAL OPERATING CYCLE**

<sup>1</sup> Releases of Sites Water for uses SOD will be exported through Delta Export Facilities consistent with the requirements for transfer of non-CVP/SWP project water. Currently, non-CVP/SWP project water can only be conveyed through the Delta Export Facilities during July through November (often referred to as the “transfer window”) consistent with the Biological Opinions for CVP and SWP operations issued by National Marine Fisheries Service and US Fish and Wildlife Service. Sites water will be exported during this July through November transfer window.



## 2.2 Forecasting

Forecasting will be used to project when Project diversions to storage are expected and to estimate the amount of water available to each Storage Partner in a given year. Forecasts will use the best available technology at the time of operations and are expected to rely on publicly available probabilistic river and seasonal runoff forecasts.

Forecasting for diversions will begin as early as late-August (prior to the start of the diversion season in September). Diversion forecasting will include coordination with DWR and Reclamation to monitor, project, and verify Sacramento-San Joaquin Delta (Delta) conditions. Diversion forecasting is further described in Section 3.4.

The Authority intends to work with all Storage Partners, Reclamation (in its capacity of CVP operations) and DWR to determine the most effective time period to initiate seasonal Project-specific forecasts along with what information is most useful for Storage Partners' planning purposes and for Reclamation and DWR in determining such things as available capacity and timing for diversions during the transfer window. Seasonal forecasts are expected to include storage estimates, potential release schedules, and estimates of available release and downstream capacities. Seasonal forecasting is expected to begin early in the calendar year and will be updated at least on a monthly basis as new information becomes available and on a timeline consistent with Storage Partners' planning schedules. Following the Authority's discussions with the Storage Partners, Reclamation, and DWR, this section will be updated to describe the general forecasting schedule and forecast details.

## 2.3 Real-time Tracking and Accounting

A Project dashboard will be developed that will allow the Authority and the Storage Partners to track real-time Project operations and accounting. The dashboard is anticipated to include the following:

- Project diversions and conveyance
  - Sacramento River diversions at Red Bluff and Hamilton City
  - Pumping into Sites Reservoir from Funks Reservoir and the Terminal Regulating Reservoir (TRR)
  - Local inflows from Funks Creek and its watershed, Stone Corral Creek and its watershed and the watershed of Sites Reservoir, including precipitation
  - Requested fills
  - Actual fills
- In-Reservoir operations
  - Amounts in each Storage Partner's Storage Allocation
  - Reservoir levels
  - Estimated/calculated losses including evaporation and seepage
- Releases and deliveries
  - Outflow (releases) to Funks and Stone Corral Creeks
  - Requested releases to TRR and Funks Reservoir
  - Actual releases to TRR and Funks Reservoir
- Other Project operations
  - Power use and generation
  - Exchanged water and location
  - Estimated losses, including conveyance losses and carriage water

The real-time dashboard is anticipated to have the ability to summarize data at various timesteps (e.g., instantaneous data, prior week, prior month, year-to-date) and will be developed with input from the Storage Partners.

## **2.4 Year-end Accounting**

Following the final deliveries, year-end accounting and true-up will be prepared. True-up will consist of reconciling the end of year diversion, storage, release, and delivery accounting with all final operational data. Any discrepancies not immediately settled will be resolved through coordination with the pertinent Storage Partner(s) and the Owner/Operator(s) of any pertinent downstream facility(ies). Metrics will be provided to the Storage Partners and may also be used in the annual Sites Water Right report. It is anticipated that the year-end accounting will include a summary of the volumes collected to storage by source, account storage, requested releases from storage, actual releases, actual deliveries, and estimated losses, including spills (or carryover, if allowable) of exchange water in Oroville. The year-end accounting will be available to the Storage Partners as they make their requests for Sites Water the following year.

Currently, annual water right reports are due to the SWRCB by February 1 for the prior Water Year. Following the end of the Water Year on September 30, the Authority will request any additional information needed from Storage Partners for water right reporting purposes.

## **2.5 Periodic Synthesis Reporting**

A synthesis report will be prepared by the Authority staff every 5 years, starting 5 years after initial operations of the Project. Depending on hydrologic conditions and the range of operations during the initial years of operation, the Authority will consider if an earlier synthesis report (i.e., prior to 5 years) would be informative. The synthesis report will evaluate the efficiency and effectiveness of Project operations, describe, at a minimum, challenges and opportunities that occurred over the prior 5 years of operations, and identify improvements to be implemented in the future, including potential changes to this Operations Plan. The Periodic Synthesis Report will incorporate feedback and assess satisfaction of the Storage Partners and facility partners with Project operations. Any changes to the Operations Plan recommended by the Periodic Synthesis Report will be made consistent with the process and requirements detailed in Section 12.0.

# **3.0 Diversions and Conveyance to Sites Reservoir**

## **3.1 Overall Project Diversions**

Project diversions to storage will generally occur in the winter and early spring but could occur any time from September 1 through June 14, subject to compliance with all Applicable Laws and Governmental Approvals. With regard to diversions from the Sacramento River, Project facilities can only be used to divert/fill or release from the Reservoir; simultaneous fill from the Sacramento River and release back into Funks Reservoir or the TRR through the inlet/outlet works (I/O Works) cannot occur with the planned facilities. Simultaneous fill from Funks and Stone Corral Creeks and release through the I/O Works is possible, as is release of water to the creeks below the dams while filling with Sacramento River water. In addition, and consistent with the Sites Water Right application, all water diverted under the Sites Water Right must be placed into storage in Sites Reservoir and cannot be directly put to beneficial use prior to being stored in Sites Reservoir.

In accordance with all its obligations, contractual, permitting, regulatory, agreements, and otherwise, the Authority plans to maximize the diversion of water from all three sources (Sacramento River, Funks Creek, and Stone Corral Creek) into storage consistent with physical constraints and hydrologic conditions. The Authority is responsible for deciding whether and how much Sites Water to divert from all sources.

## 3.2 Diversion and Conveyance Facilities to Sites Reservoir

Sites Reservoir will be filled primarily through the diversion of Sacramento River flows. Diversions from the Sacramento River and conveyance to Sites Reservoir will occur via (1) the existing Red Bluff Pumping Plant (RBPP) and fish screen, the Tehama-Colusa Canal (TC Canal), and Funks Reservoir or (2) the existing Hamilton City Pump Station and fish screen, GCID Main Canal, and TRR. These facilities are shown in Figure 2 and Figure 3 and described in Attachment B. When river conditions and capacity are available for both diversion facilities to be operated simultaneously, the maximum combined diversion rate from the Sacramento River is 4,200 cubic feet per second (cfs)<sup>2</sup> as identified in the Sites water right application. Additional criteria related to the rate of diversion at each POD are summarized in Section 3.3.

Water from Funks and Stone Corral Creeks will also be impounded in Sites Reservoir. Water from Funks Creek and its tributaries upstream will be diverted at Golden Gate Dam, while water from Stone Corral Creek and its tributaries upstream will be diverted at Sites Dam, and the watershed of Sites Reservoir will flow directly into the reservoir.

## 3.3 Diversion Criteria

Table 1 provides a summary of all of the diversion criteria applicable to the Project's Sacramento River diversions. Table 2 provides a summary of all of the diversion criteria applicable to the Project's Funks and Stone Corral Creeks diversions. Each diversion criteria is discussed in more detail in the following subsections.

**TABLE 1. SUMMARY OF PROJECT'S SACRAMENTO RIVER DIVERSION CRITERIA**

Criteria	Description
<b>System-wide Criteria and Regulations</b>	
Diversion Season	Limited to September 1 to June 14
Balanced Conditions in the Delta and Net Delta Outflow Index (NDOI) Upon Initiation	No diversions during Balanced conditions, which are determined by DWR and Reclamation For diversions to commence, NDOI must have increased by an additional 3,000 cfs above the NDOI from the day prior to the determination of Excess conditions to initiate diversions. Following commencement of diversions, the 3,000 cfs requirement is not required to be maintained unless or until the Delta returns to a Balanced condition.
Excess Conditions with Sacramento River Export Restrictions	No diversions during Excess conditions with Sacramento River export restrictions unless DWR has reasonably found that the proposed diversion would not cause an adverse impact as defined in the Sites/SWC/DWR Settlement Agreement

<sup>2</sup> The maximum combined diversion rate planned by the Authority and included in the Sites water right application is 4,200 cfs. The current maximum combined diversion rate in the ITP is 4,190 cfs.

Close Coordination Conditions with DWR and Reclamation	Certain Delta conditions where DWR, Reclamation, and the Authority have agreed to closely coordinate to avoid adverse effects on SWP and CVP operations and water rights
Senior Water Rights	Existing water rights with a priority date prior to September 30, 1977 and those listed in Attachment C are senior
Term 91	Diversions only allowed when Term 91 is not in effect
SWP Article 21, Reclamation Article 3F and Section 215	Delivery of SWP Article 21 water, CVP Article 3(f), and CVP Section 215 water is senior to Project diversions <sup>3</sup>
SWRCB Decision 1641 (D-1641)	Project operations cannot affect the implementation of water quality and flow objectives in D-1641
SWP Incidental Take Permit (ITP)	Project operations cannot affect DWR's ability to operate to the then existing SWP ITP
CVP and SWP Biological Opinions (BiOps)	Project operations cannot affect Reclamation's ability to operate to the then existing BiOps for the operations of the CVP and SWP
Diversion Capacity Available	There is available capacity at the RBPP and in the TC Canal and GCID facilities to divert and convey water to Sites Reservoir, above the capacity needed for deliveries to existing TC Canal users and within the GCID service area
Trinity River Water	No water diverted from the Trinity River watershed to the Sacramento River watershed by Reclamation can be diverted or rediverted into the Project
Temporary Urgency Change Order for Delta Water Quality Objectives	No diversions when the Bay-Delta Water Quality Control Plan requirements for Delta Outflow, X2 (Spring), Rio Vista, Emmaton, Jersey Point, and Delta Export to Inflow (E:I) ratio are modified by a Temporary Urgency Change Petition/Order and the CVP or SWP are operating to the modified conditions
Temporary Restrictions	Comply with any temporary restrictions on diversions put into place by SWRCB, such as water right curtailments
<b>Project-specific Sacramento River Diversion Criteria</b>	
Flow Dependent Diversions	<p>RBPP: No diversion until flows in the Sacramento River at Bend Bridge exceeds 4,800 cfs from January 1 to February 28 (or February 29 in leap years) and 6,295 cfs from September 1 to December 31 along with March 1 to June 14. Diversions ramp up as flows increase in the Sacramento River until full diversion amount is reached at flows of 14,100 cfs or higher in the Sacramento River at Bend Bridge from January 1 to February 28 (or February 29 in leap years) and 17,500 cfs or higher from September 1 to December 31 along with March 1 to June 14.</p> <p>HCPS: No diversion until flows in the Sacramento River at Hamilton City exceeds 10,500 cfs after any Project and non-Project diversions at HCPS from September 1 to June 14. Diversions ramp up as flows increase in the Sacramento River until full diversion amount is reached at flows of 24,500 cfs or higher in the Sacramento River at Hamilton City after any Project and non-Project diversions at HCPS.</p>

<sup>3</sup> Only these contracted "excess" supplies are identified here to specifically note that diverted Sites Water cannot displace CVP Article 3(f) or CVP Section 215 water in the TC Canal or GCID Main Canal and/or diversion of Sites Water cannot reduce the ability of the CVP and SWP to export water for SWP Article 21, CVP Article 3(f), or CVP Section 215 supplies South of the Delta.

Wilkins Slough Bypass Criteria	Diversions may not cause flow in the Sacramento River at Wilkins Slough to decline below 10,930 cfs
Bypass Criteria at RBPP	Sacramento River at RBPP must remain at or above 3,250 cfs
Bypass Criteria at HCPS	Sacramento River at HCPS must remain at or above 4,000 cfs
Operable Fish Screens	Diversions may only occur with the fish screen panels at the RBPP and HCPS are installed, maintained, and fully operational
Maximum Total Annual Diversions and Maximum Diversion Rate	<ul style="list-style-type: none"> <li>– Total maximum annual Project diversions from the Sacramento River of no more than 986,000 AF</li> <li>– Total maximum annual Project diversion at the RBPP of no more than 660,000 AF</li> <li>– Total maximum annual Project diversion at the HCPS of no more than 421,000 AF</li> <li>– Maximum instantaneous diversion rate at RBPP of 2,120 cfs</li> <li>– Maximum instantaneous diversion rate at HCPS of 2,070 cfs</li> </ul>
Cessation of Diversions	<ul style="list-style-type: none"> <li>– When either USGS Station 11390500 or CNRFC-WLKC1 Station are nonoperational unless CDFW has approved an alternative plan</li> <li>– When Project flow monitoring facilities are nonoperational</li> </ul>
Agreements	Project is implementing all Sacramento River, diversion-related agreements described in Section 3.3.3

**TABLE 2. SUMMARY OF PROJECT'S FUNKS AND STONE CORRAL CREEK DIVERSION CRITERIA**

Criteria	Description
<b>System-wide Criteria and Regulations</b>	
Diversion Season	Limited to September 1 to June 14
Balanced Conditions in the Delta	No diversions during Balanced conditions, which are determined by DWR and Reclamation
Close Coordination Conditions with DWR and Reclamation	Certain Delta conditions where DWR, Reclamation, and the Authority have agreed to closely coordinate to avoid adverse effects on SWP and CVP operations and water rights
Senior Water Rights	Existing water rights with a priority date prior to September 30, 1977 and those listed in Attachment C are senior
Term 91	Diversions only allowed when Term 91 is not in effect
Temporary Restrictions	Comply with any temporary restrictions on diversions put into place by SWRCB, such as water right curtailments
<b>Project-specific Funks and Stone Corral Creek Diversion Criteria</b>	
Funks Creek and Stone Corral Creek Operations Plan	No water can be impounded from Funks and Stone Corral Creeks until the Authority completes a Funks Creek and Stone Corral Creek Operations Plan
Agreements	Project is implementing all Funks and Stone Corral Creek, diversion-related agreements described in Section 3.3.5

### 3.3.1 System-wide Criteria and Regulations

The system-wide regulatory requirements that must be met prior to diversions are summarized below. All diversion criteria, both system-wide and Project-specific, must be met for Project diversions.

- System-wide criteria and regulations applicable to all sources:
  - **Diversion Season:** The Authority would only divert from September 1 through June 14, inclusive. No diversions can occur from June 15 to August 31, inclusive, regardless of conditions or flows.
  - **Balanced Conditions in the Delta:** The Project would not be allowed to divert when the Delta is in balanced conditions. Balanced conditions exist when DWR and Reclamation agree that releases from upstream reservoirs plus unregulated flow approximately equals the water supply needed to meet Sacramento Valley in-basin uses plus exports. Balanced conditions are determined by DWR and Reclamation.
  - **Senior Water Rights:** The Authority has submitted a Petition for Assignment of a State-filed water right (A025517), which has a priority date of September 30, 1977. Existing water rights with an earlier priority date are senior to the Project. This includes the existing CVP and SWP water rights. This also includes those water rights to which the Authority subordinated its right to divert listed in Attachment C which were included in the Sites Water Right application materials.
  - **Term 91<sup>4</sup>:** The Project would only divert when Term 91 is not in effect.
  - **Temporary Restrictions:** The Project will also be required to operate under any temporary restrictions on pumping put into place by SWRCB, such as water right curtailments.
- System-wide criteria and regulations applicable to Sacramento River diversions, in addition to the above:
  - **Excess Conditions with Sacramento River Export Restrictions:** The Project may not divert during Excess conditions with Sacramento River export restrictions unless DWR has reasonably found that a proposed diversion will not cause an adverse effect as defined in the Sites/SWC/DWR Settlement Agreement.
  - **Close Coordination Conditions with DWR and Reclamation:** There are certain Delta conditions where DWR, Reclamation, and the Authority have agreed to closely coordinate to avoid adverse effects on SWP and CVP operations and water rights. These conditions will be described in the Anticipated Sites/Reclamation/DWR Operations Agreement.
  - **NDOI Upon Initiation:** For diversions to commence, NDOI must have increased by an additional 3,000 cfs above the NDOI from the day prior to the determination of Excess conditions. This criteria is initiated each time the Delta moves from balanced to Excess and Project diversions are initiated. The 3,000 cfs requirement is not required to be maintained while the Project is diverting. See Operations ITP Term 9.8.

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<sup>4</sup> Term 91 requires that those holding such permits and licenses cease diverting water when the State Water Resources Control Board's Division of Water Rights (Division) gives notice that water is not available for use under those permits and licenses. This occurs at times when the State Water Project and Central Valley Project are releasing previously stored water to meet water quality and flow requirements in the Delta and the Delta is termed to be in "balanced conditions," generally during the summer and fall. See: [https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/term\\_91/](https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/term_91/)

- **SWP Article 21, Reclamation Article 3F and Section 215:** The SWP contracts and CVP contracts include provisions for deliveries above contract amounts in certain conditions. This water is generally available in wetter water year types or in higher flow conditions. The delivery of SWP Article 21 water, CVP Article 3(f), and CVP Section 215 water cannot be displaced or impacted by Project diversions.
- **SWRCB Decision 1641 (D-1641):** D-1641 and its amendment identify the implementation of water quality and flow objectives for the San Francisco Bay and Sacramento-San Joaquin Delta Estuary. Components of D-1641 expected to have the largest influence on Project operations include requirements for the Net Delta Outflow Index, maximum percent of Delta inflow diverted (Export/Inflow ratio), operations of the CVP and SWP related to salinity and X2, and Delta water quality requirements.
- **SWP Incidental Take Permit (ITP):** The Project would operate so as to avoid affecting DWR's ability to operate to the then-existing SWP Incidental Take Permit, currently the 2024 SWP ITP (ITP No. 2081-2023-054).
- **CVP and SWP BiOps:** The Project would operate so as to avoid impairing Reclamation's ability to operate to the then-existing BiOps for the long-term operations of the CVP and SWP.
- **Diversion Capacity Available:** There is available capacity at the RBPP and in the TC Canal and GCID facilities to divert and convey water to Sites Reservoir, above the capacity needed for deliveries to existing TC Canal users and within the GCID service area.
- **Trinity River Water:** No water originating from the Trinity River can be rediverted into the Project. Trinity River Water is defined as water diverted by Reclamation from the Trinity River watershed into the Sacramento River watershed pursuant to Reclamation's water rights.
- **Temporary Urgency Change Order for Delta Water Quality Objectives.** No diversions when the Bay-Delta Water Quality Control Plan requirements for Delta Outflow, X2 (Spring), Rio Vista, Emmaton, Jersey Point, and Delta Export to Inflow (E:I) ratio are modified by a Temporary Urgency Change Petition/Order and the CVP or SWP are operating to the modified conditions. See Operations ITP Term 9.9.

### 3.3.2 Project-specific Sacramento River Diversion Criteria

Below are the Project-specific Sacramento River diversion criteria. All of the criteria must be met, in addition to the system-wide criteria listed in Section 3.3.1.

#### 3.3.2.1 Flow Dependent Diversion

##### RBPP

No diversion until flows in the Sacramento River at Bend Bridge as measured at the CDEC Station Bend Bridge (BND)<sup>5</sup> exceeds 4,800 cfs from January 1 to February 28 (or February 29 in leap years) and 6,295 cfs from September 1 to December 31 along with March 1 to June 14.

Allowable Sites Project diversions at RBPP from January 1 to February 28 (February 29 in leap years) are specified in Table 3. Allowable Sites Project diversions at RBPP from March 1 to June 14 and September 1 to December 31 are specified in Table 4. Linear interpolation shall be used between the range values provided in Table 3 and Table 4. Diversion adjustments can be made as frequently as desired in coordination with TCCA.

**TABLE 3. FLOW DEPENDENT DIVERSIONS AT RBPP – JANUARY 1 THROUGH FEBRUARY 28 (FEBRUARY 29 IN LEAP YEARS)**

Real-Time Flow at Bend Bridge (BND) in cfs	Maximum Diversion (cfs)
4,800	0
5,000	130
6,000	230
7,000	360
8,000	520
9,000	710
10,000	930
11,000	1,180
12,000	1,450
13,000	1,760
14,000	2,100
14,100	2,120
Greater than 14,100	2,120

**TABLE 4. FLOW DEPENDENT DIVERSIONS AT RBPP – MARCH 1 TO JUNE 14 AND SEPTEMBER 1 TO DECEMBER 31**

Real-Time Flow at Bend Bridge (BND) in cfs	Maximum Diversion (cfs)
6,300	0
7,000	120
8,000	220
9,000	340
10,000	480
11,000	640
12,000	810
13,000	1,010
14,000	1,220
15,000	1,460
16,000	1,710
17,000	1,980
17,500	2,120
Greater than 17,500	2,120

See Operations ITP Term 9.14.1.

<sup>5</sup> California Data Exchange Center Station Bend Bridge (BND) – [https://cdec.wa14,100ter.ca.gov/dynamicapp/staMeta?station\\_id=BND](https://cdec.wa14,100ter.ca.gov/dynamicapp/staMeta?station_id=BND)



## HCPS

No diversion until flows in the Sacramento River at HCPS as measured at the CDEC Station Hamilton City (HMC)<sup>6</sup> exceeds 10,500 cfs from September 1 to June 14 and accounting for both Project and non-Sites Project diversions at the HCPS. As the HMC CDEC Station is downstream of the HCPS, Sites Project and other non-Sites Project<sup>7</sup> (if any are occurring) diversion at the HCPS must be accounted for such that, for the Sites Project diversions to occur, the HMC CDEC Station continues to exceed 10,500 cfs with total diversions at the HCPS.

Allowable Sites Project diversions at HCPS from September 1 to June 14 are specified in Table 5. Linear interpolation shall be used between the range values provided in Table 5. Diversion adjustments can be made as frequently as desired in coordination with GCID.

**TABLE 5. FLOW DEPENDENT DIVERSIONS AT HCPS – SEPTEMBER 1 TO JUNE 14**

Real-Time Flow at Bend Bridge (BND) in cfs	Maximum Diversion (cfs)
10,500	0
11,500	280
12,500	370
13,500	480
14,500	590
15,500	720
16,500	850
17,500	980
18,500	1,130
19,500	1,290
20,500	1,450
21,500	1,620
22,500	1,800
23,500	1,990
24,500	2,200
Greater than 24,500	2,200

See Operations ITP Term 9.14.2.

### 3.3.2.2 Wilkins Slough Bypass Criteria

Diversions to Sites Reservoir may not cause flow in the Sacramento River at Wilkins Slough to decline below 10,930 cfs for the entire diversion season (September 1 to June 14) as indicated by United States Geological Survey (USGS) Station 1139050031<sup>8</sup> - Sacramento R BL Wilkins Slough NR Grimes CA.

This is determined using the following criteria:

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<sup>6</sup> California Data Exchange (CDEC) Station Hamilton City (HMC) - [https://cdec.water.ca.gov/dynamicapp/staMeta?station\\_id=HMC](https://cdec.water.ca.gov/dynamicapp/staMeta?station_id=HMC).

<sup>7</sup> Non-Sites Project water refers to any water diverted at the HCPS not for the purpose of diversion to Sites Reservoir.

<sup>8</sup> Real-time flow at USGS Station# 11390500 - <https://waterdata.usgs.gov/monitoringlocation/11390500/#parameterCode=00065&period=P7D&showMedian=false>

- The Real-Time flow at USGS Station 11390500 exceeds 10,930 cubic feet per second (cfs).
- The California Nevada River Forecast Center (CNRFC) forecasted flow at station WLKC1<sup>9</sup> exceeds 10,930 cfs for the subsequent 72 hours following the estimated start time of any diversion event.
- The forecasted flow continues to exceed 10,930 cfs at CNRFC station WLKC1 for 72 hours after the diversion event is scheduled to end.
- The forecasted flow at CNRFC station WLKC1 shall be re-evaluated for the duration of the diversion event at a minimum of every twenty-four hours to ensure the projected forecast has not changed and the forecasted flow continues to exceed 10,930 cfs.

In the event that TCCA and/or GCID is also diverting at the same time as diversions to Sites Reservoir are occurring, then the above condition applies and the Sites Project cannot divert unless the Sacramento River at Wilkins Slough remains at or above 10,930 cfs. The total allowable Sites Project diversions shall be determined by the following equation:

Available Flow for the Sites Project (cfs) =  $WLK_{72hrForecast} - (10,930 + RB_{NonPermitteeDiv} + HC_{NonPermitteeDiv})$

Where:  $WLK_{72hrForecast}$  is the CNRFC 72-hour forecast

$RB_{NonPermitteeDiv}$  is non-Sites Project diversions at RBPP

$HC_{NonPermitteeDiv}$  is the non-Sites Project diversions at HCPS

See Operations ITP Term 9.12 and 9.13.

Diversions need to cease when any of the following exist:

- Flows at USGS Station 1139050031 no longer exceed 10,930 cfs.
- The 72-hour forecast indicates the CNRFC Station WLKC1 no longer exceeds 10,930 cfs for the 72-hour period following the estimated start time or end time of diversions.
- Any 24-hour re-evaluation of the forecast indicates CNRFC Station WLKC1 will no longer exceed 10,930 cfs.
- Total Sites diversions and non-Sites diversions at RBPP and HCPS will reduce flows below 10,930 cfs at Wilkins Slough (as measured at either USGS Station 1139050031 or CNRFC Station WLKC1).

See ITP Term 9.15.

### 3.3.2.3 Bypass Criteria at the Red Bluff Pumping Plant

Diversions at the RBPP can occur only when flows in the Sacramento River are at and remain at or above 3,250 cfs, as measured at the Bend Bridge California Data Exchange (CDEC) Station (BND)<sup>10</sup> minus any

<sup>9</sup> California Nevada River Forecast Center (CNRFC) deterministic forecasted flow at station WLKC1 - <https://www.cnrfc.noaa.gov/ensembleProduct.php?id=WLKC1&prodID=3>

<sup>10</sup> California Data Exchange Center Station Bend Bridge (BND) - [https://cdec.water.ca.gov/dynamicapp/staMeta?station\\_id=BND](https://cdec.water.ca.gov/dynamicapp/staMeta?station_id=BND)

Project diversions and any non-Project diversions (such as CVP diversions) occurring at the RBPP. See Operations ITP Term 9.10.

#### *3.3.2.4 Bypass Criteria at the Hamilton City Pump Station*

Diversions at the HCPS can occur only when flows in the Sacramento River are at and remain at or above 4,000 cfs, as measured at the Hamilton City CDEC Station (HMC)<sup>11</sup>. See Operations ITP Term 9.11.

#### *3.3.2.5 Operable Fish Screens*

Diversions may only occur with the fish screen panels at the RBPP and HCPS are installed, maintained, and fully operational. The Project's Operations ITP includes terms and conditions relative to fish screen testing and maintenance that must be implemented relative to this criteria. See Operations ITP Terms 9.1 and 9.2.

#### *3.3.2.6 Maximum Total Annual Diversions and Maximum Diversion Rates*

Total maximum annual Project diversions from the Sacramento River is limited to 986,000 AF, combined from both the RBPP and HCPS. The total maximum annual Project diversion at the RBPP is no more than 660,000 AF. The total maximum annual Project diversion at the HCPS is no more than 421,000 AF. The individual total maximum annual Project diversion at RBPP and HCPS are not intended to add to 986,000 AF. See Operations ITP Term 9.4.

The maximum Project diversion rate at the RBPP is 2,120 cfs. The maximum Project diversion rate at the HCPS is 2,070 cfs. See Operations ITP Term 9.5 and 9.6.

#### *3.3.2.7 Cessation of Diversions*

Diversions from the Sacramento River must cease when either of the following exist:

- Either USGS Station 11390500 or CNRFC - WLKC139 Station is nonoperational, or the data centers cease to provide data. The Authority may develop and seek CDFW's approval of alternative methods of compliance.
- Downstream flow monitoring equipment or Project facilities that monitor water volumes diverted, exported, transferred, or exchanged related to the Project are nonoperational or cease to provide data. The equipment or facilities include, but are not limited to, Supervisory Control and Data Acquisition (SCADA) components at the RBPP or HCPS diversion facilities, flow monitoring equipment at the Terminal Regulating Reservoir, Funks Reservoir, I/O Facility, Sites Reservoir and at the Dunnigan Pipeline.

See Operations ITP Term 9.15.

### **3.3.3 Project-specific, Sacramento River Diversion-Related Operations Agreements**

The Project-specific, Sacramento River operational components from operations agreements are indicated below. Note that each description does not summarize the respective agreement in its

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<sup>11</sup> California Data Exchange Center Station Hamilton City (HMC) - [https://cdec.water.ca.gov/dynamicapp/staMeta?station\\_id=HMC](https://cdec.water.ca.gov/dynamicapp/staMeta?station_id=HMC)

entirety, but rather focuses on the sections of this Operations Plan that address operational components. Executed agreements can be found in Attachment A.

- CCWD Agreement – The notification and coordination components of this agreement have been incorporated into Section 3.5. This agreement may require modifications in the timing or amount of Project diversions depending on outcomes of the notification and coordination process.
- NDWA MOU – The operations-related components of this agreement are incorporated into the diversion criteria described throughout this Section 3.3. Future changes, if any, to the diversion criteria need to be considered in the context of the NDWA MOU.
- Anticipated Sites/Reclamation/DWR Operations Agreement – The operations-related components of this agreement are incorporated into the diversion criteria described throughout this Section 3.3. The notification and coordination components of this agreement have been incorporated into Section 3.5.
- Sites/SWC/DWR Settlement Agreement – The operations-related components of this agreement are incorporated into the diversion criteria described throughout this Section 3.3. The notification and coordination components of this agreement have been incorporated into Section 3.5.

### 3.3.4 Project-specific Funks and Stone Corral Creeks Diversion Criteria

Below are the Project-specific Funks and Stone Corral Creeks diversion criteria. All of the criteria must be met, in addition to the applicable system-wide criteria and regulations listed in Section 3.3.1.

- **Funks Creek and Stone Corral Creek Operations Plan:** No water can be impounded from Funks and Stone Corral Creeks until the Authority completes a Funks Creek and Stone Corral Creek Operations Plan, as described in the Sites Water Right application and the Project’s Final EIR. The Authority has committed to including GCID, TCCA, Colusa County, Maxwell ID, and the Colusa Drain MWC in the development of this Funks Creek and Stone Corral Creek Operations Plan. This effort is likely to result in additional operational considerations for the creeks that would be reflected in a future version of this Operations Plan.

#### 3.3.4.1 Regulation of Creek Flows

The Authority may regulate flows on Funks and/or Stone Corral Creeks (temporarily store water from the creeks for less than 30 days) for the purposes of public safety to prevent downstream flooding impacts. Regulation would only occur when the applicable Funks and Stone Corral Creek diversion criteria are not being met and thus, water from the creeks is not being diverted to storage under the Sites Water Right; but downstream impacts are anticipated from high flow events. Prior to regulating flows, the Authority shall coordinate with Colusa County and document the current and anticipated flow conditions and possible downstream threats to life and property. The Authority shall estimate the amount of flow retained during regulation and develop a plan to safely release the entire estimated amount, with no more than a 30-day retention period. Regulated flows from Funks and/or Stone Corral Creeks will occupy empty space (i.e., Storage Allocation not filled with water) in Sites Reservoir and does not require the Authority to lease space from Storage Partners. In the event that all Storage Partner allocations are full, it is assumed that this water would be held in the inactive storage pool. If and when this water is released from the inactive storage pool, that volume will be accounted for and refilled

consistent with Section 4.3 of this Operations Plan. This is expected to be a rare occurrence. Regulated flows from Funks and/or Stone Corral Creeks will not be allocated to any Storage Partner as this is not Sites Water diverted under the Sites Water Right.

Regulation may also occur during Project construction to manage flows through construction areas for public/worker safety and site stability considerations. If regulation is needed during construction, the Authority will develop a plan for regulating flows and will establish a methodology to measure daily inflows and outflows. The Authority will make all reasonable efforts to release regulated flows within 30 days when considering safety and site conditions.

### **3.3.5 Project-specific, Funks and Stone Corral Creeks Diversion-Related Operations Agreements**

The Project-specific, Funks and Stone Corral Creeks operational components from operations agreements are described below. Note that each description does not summarize the respective agreement in its entirety, but rather focuses on the diversion-related operational components. Executed agreements can be found in Attachment A.

- Colusa County MOU – The allocation of Sites Water diverted from Funks and Stone Corral Creeks is addressed in Section 3.6 of this Operations Plan. Section 3.3.4 of this Operations Plan describes the development of the Funks Creek and Stone Corral Creek Operations Plan and the Authority’s commitment to include Colusa County in its development. Monitoring and measurement of water originating from Funks and Stone Corral Creeks will be addressed in a separate Measurement and Monitoring Plan that Authority staff are developing.
- Maxwell ID Agreement – The diversion-related components of this agreement are incorporated into the diversion criteria described throughout this Section 3.3. The diversion-related notification and coordination components of this agreement are incorporated into Section 3.5. Monitoring and measurement of water originating from Funks and Stone Corral Creeks will be addressed in a separate Measurement and Monitoring Plan that Authority staff are developing.
- Anticipated Colusa Drain MWC Agreement – The diversion-related operations components of this agreement are incorporated into the diversion criteria described throughout this Section 3.3. The diversion-related notification and coordination components of this agreement are incorporated into Section 3.5. Monitoring and measurement of water originating from Funks Creek and Stone Corral Creek and releases into the Colusa Basin Drain and Knights Landing Ridgecut will be addressed in a separate Measurement and Monitoring Plan that Authority staff are developing.

## **3.4 Diversion Forecasting**

The Authority will develop and maintain a tool to assist with diversion forecasting and coordination. Currently, a spreadsheet tool, referred to as the Forecasting Tool, has been created to forecast potential diversions from the Sacramento River. The Forecasting Tool includes observed and forecasted flows for Cow, Cottonwood, and Battle creeks, along with the Sacramento River at Bend Bridge, the Sacramento River at Wilkins Slough, and the observed and expected Delta condition. The observed and forecasted flows are evaluated with the system-wide and Project-specific diversion criteria to forecast the rate of water that the Authority could potentially divert each day.

Forecasted flows for locations on the Sacramento River and tributary creeks are available on a 30-day outlook; however, forecasts are typically only reliable in the 10- to 14-day range. The Authority will use forecasts to initiate and continue coordination with facility operators and other agencies as required under agreements.

There are currently no forecast data available for Funks and Stone Corral creeks. The Authority will consider what tools are needed, if any, to forecast inflows from these creeks.

Each diversion forecast and all long-range, seasonal forecasts prepared for the Sacramento River and for Funks and Stone Corral creeks will consider the available storage capacity remaining in Sites Reservoir as a whole and in each Storage Partner account.

### 3.5 Diversion Notifications

During the diversion season, the Authority will regularly coordinate with DWR and Reclamation to exchange data and forecasts regarding projected operations and conditions. Through this regular close coordination, the Authority, DWR, and Reclamation will have a collective understanding of when Project diversions are projected to begin, continue, or cease.

When system-wide and Project-specific diversion criteria are met, the Authority will be responsible for deciding whether and how much to divert from all sources in accordance with applicable provisions of the Project's Applicable Laws and Governmental Approvals, and will coordinate with TCCA and GCID to provide specific diversion requests, including timing and amount. The Authority will work with TCCA and GCID to develop a communications protocol and procedure to ensure efficient and effective communication on diversions and conveyance of diverted water to Funks Reservoir and the TRR, respectively.

Table 6. identifies diversion notifications applicable to the Project's Sacramento River diversions. Table 7. identifies diversion notifications applicable to the Project's Funks and Stone Corral Creeks diversions.

**TABLE 6. SACRAMENTO RIVER DIVERSION NOTIFICATIONS AND TIMING**

Notification Timeframe	Agency Notifying	Notification Summary	Controlling Agreement and Section
Regular basis, no specific timing	CCWD	Meet with CCWD to share information about forecasted conditions and coordinate regarding foreseeable Project operations; discuss and cooperatively work to assess and improve relevant modeling tools and processes; agree upon the tool or tools to be used prior to the Sites Project diversion season within the context of the agreement	CCWD Agreement, SOP, Paragraph 1
At least 7 days prior to diversions (or earlier, if possible)	CCWD	Inform CCWD of dates and rates of intended diversions, as well as if forecasted "Quick Check-in Conditions and Process" or "Quantitative Analysis Conditions and Process" exist and follow process identified in the CCWD Agreement, SOP (see Attachment A)	CCWD Agreement, SOP, Paragraph 2
At least 7 days prior to diversions (or earlier, if possible)	DWR, SWC	Inform DWR and SWC of date and rate of intended diversions. If Excess conditions with Sacramento River export restrictions are	Sites/SWC/DWR Settlement Agreement,

Notification Timeframe	Agency Notifying	Notification Summary	Controlling Agreement and Section
		forecasted as defined in the Sites/SWC/DWR Settlement Agreement, DWR shall determine if the planned diversion will cause an adverse effect to the SWP and notify the Authority	Paragraphs 2.3 and 3.4

**TABLE 7. FUNKS AND STONE CORRAL CREEKS DIVERSION NOTIFICATIONS AND TIMING**

Notification Timeframe	Agency Notifying	Notification Summary	Controlling Agreement and Section
Regular basis, no specific timing	Maxwell ID	Meet with Maxwell ID to share information about forecasted conditions and coordinate regarding foreseeable Project operations; discuss and cooperatively work to assess and improve relevant measurement and monitoring tools and processes along with assess and improve data sharing and communications tools and processes	Maxwell ID Agreement, SOP, Paragraph 1
At least 7 days prior to diversions (or earlier, if possible)	Maxwell ID	Inform Maxwell ID of date of anticipated initial diversions	Maxwell ID Agreement, SOP, Paragraph 3a
Weekly after initial notification through remainder of diversion season (June 14)	Maxwell ID	Inform Maxwell ID of Project's intended diversions to storage of water from Funks and/or Stone Corral Creeks and releases into Funks and/or Stone Corral Creeks weekly for the upcoming seven (7) days that occur two (2) days following the notification (for example, if the notification occurs on a Monday, it would cover the upcoming seven days from Wednesday through the following Tuesday). Inform Maxwell ID of changes that may occur to the weekly plan as soon as possible	Maxwell ID Agreement, SOP, Paragraph 3b
Daily	Maxwell ID	Inform Maxwell ID of the following: flows in the creeks above Sites Reservoir for the prior day; actual daily releases into Funks and Stone Corral Creeks from Sites Reservoir for the prior day; expected daily releases into Funks and Stone Corral Creeks from Sites Reservoir for the current day; and flows in Stone Corral Creek at locations downstream of Sites Reservoir but upstream of Maxwell ID's POD #2 (on Stone Corral Creek near its intersection with Maxwell Road) for the prior day	Maxwell ID Agreement, SOP, Paragraph 2
Periodic Regulation of Flows for Less than 30 Days	Maxwell ID	Notify Maxwell ID in advance of regulation, or as soon as possible after regulation has occurred if advance notice was not possible, and coordinate to ensure that Maxwell ID's ability to exercise its water rights is not impacted	Maxwell ID Agreement, SOP, Paragraph 4

Note: The Anticipated Colusa Drain MWC Agreement is expected to have the same or substantially similar notification requirements. Once this agreement is finalized, these requirements will be incorporated into this table.

## 3.6 Allocation of Diversions to Storage Partners

### 3.6.1 Allocation of Diversions

Sites Water diverted from the Sacramento River is first used to fill inactive storage. After inactive storage is filled, each Storage Partner will be allocated water diverted from the Sacramento River based on each Storage Partner's Base Facilities Capacity Interest as specified in their respective contract up to each Storage Partner's Storage Allocation or other Storage Allocation leased or acquired. If a Storage Partner's Storage Allocation is not available or is full, then diverted Sites Water from the Sacramento River will be allocated proportional to the Storage Allocation of all Storage Partners who have available Storage Allocation remaining.

Sites Water diverted from Funks and Stone Corral Creeks, and their tributaries, and from the watershed of Sites Reservoir is allocated to Colusa County or other beneficiaries as specified in the Colusa County MOU up to the County's or other beneficiaries' Storage Allocation or other Storage Allocation leased or acquired.<sup>12</sup> If Colusa County's or other beneficiaries' Storage Allocation is not available or is full, then diverted Sites Water from Funks and Stone Corral Creeks, and their tributaries, and from the watershed of Sites Reservoir will be allocated first to fill inactive storage and second proportional to the Storage Allocation of all Storage Partners who have available Storage Allocation remaining.

The timing, volume, and rate of releases into Funks and Stone Corral Creeks are uncertain at this time. Once additional information is known, the Authority may project anticipated release needs for the creeks and hold back allocating water diverted from Funks and Stone Corral Creeks, and their tributaries, and from the watershed of Sites Reservoir in anticipation of meeting future downstream needs. This allocated creek water will occupy empty space (i.e., Storage Allocation not filled with water) in Sites Reservoir and does not require the Authority to lease space from Storage Partners. In the event that all Storage Partner allocations are full, it is assumed that this water would be held in inactive storage. If and when this water is released from inactive storage, that volume will be accounted for and refilled consistent with Section 4.3 of this Operations Plan. This is expected to be a rare occurrence.

Consistent with the Sites Water Right application, all water diverted under the Sites Water Right must be placed into storage in Sites Reservoir and cannot be directly put to beneficial use prior to being stored in Sites Reservoir. Under expected operational conditions, once water is diverted and physically placed into storage it is considered "stored" water. Stored water can be subsequently withdrawn from storage and put to beneficial use per the needs of the Authority and/or the Storage Partners.

All allocations of Sites Water to a Storage Partner's Storage Allocation will be made in Sites Reservoir. Sites Water at diversion locations and in conveyance prior to being placed in Sites Reservoir shall remain held by the Authority and not allocated to individual Storage Partner account.

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<sup>12</sup> The Colusa County MOU allows for water originating from Funks and Stone Corral Creeks, and their tributaries, and from the watershed of Sites Reservoir to be allocated to others in the future, such as Glenn County. If additional parties are beneficiaries of the Colusa County MOU in the future, then the water diverted from Funks and Stone Corral Creeks, and their tributaries, and from the watershed of Sites Reservoir would be first allocated to those parties before being allocated to the inactive storage pool or other Storage Partners.



### **3.6.2 Diversions and Storage Opportunity Request Form**

Each Storage Partner shall provide the Authority with a projected request for the volume of Sites Water the Storage Partner seeks to be stored in its respective Storage Allocation or other Storage Allocation leased or acquired in the format requested by the Authority (“Storage Opportunity Request Form”). An example Storage Opportunity Request Form is provided in Attachment E. The timing for providing an initial Storage Opportunity Request Form will be determined in a future version of this Operations Plan. The timing and frequency of changes allowed to the Storage Opportunity Request Form will be determined in a future version of this Operations Plan – with changes anticipated to be allowed with one (1) week advance notification provided that changes cannot go below the amount of Sites Water already allocated in Sites Reservoir to that Storage Partner in that diversion season. For example, if a Storage Partner originally requested its Storage Allocation to be filled but seeks to modify this request to a partial fill, but has already been allocated 50,000 AF in that diversion season in its Storage Allocation, the Storage Partner cannot reduce its partial fill request below 50,000 AF.

Storage Partners may opt out of receiving diversions into their Storage Allocation. If a Storage Partner opts out of receiving diversions, the amount of unused storage space will remain empty. Section 4.3.4 of Draft B&O states that Participants will make efforts to optimize diversion and beneficial use of Sites Water during the Sites Water Right Development Period (prior to the Sites Water Right being perfected to license) and not interfere with the Sites Authority’s efforts to do the same. During this time, if a Storage Partner chooses to opt out of fully filling its Storage Allocation with Sites Water, the Authority will evaluate if leaving that Storage Allocation empty would result in forgoing diversion of Sites Water from the Sacramento River in a way that may result in negative consequences when the Authority proceeds to license its water right. If the analysis determines that negative consequences are possible, then the Authority will work with the Storage Partner to strongly encourage the Storage Partner to make arrangements to fill the empty Storage Allocation through voluntary actions (such as a Lease of Capacity Interest or filling and selling the water to other Storage Partners). If the Storage Partner continues to choose to leave their Storage Allocation empty, then the concern will be elevated to the Authority Board of Directors for resolution. For example, one action the Authority Board may take is to require the lease of Storage Partner’s (Lessor) empty Storage Allocation to a willing Storage Partner(s) who would request release of that water prior to the next storage season, or pursuant to terms agreed to with the Lessor. The Authority Board may require Lessee to pay appropriate costs so that there are no inappropriate charges to Lessor. The purpose of this activity is to maximize the Sites Water Right when moving to water right licensing in the future for the benefit of all Storage Partners.

Storage Partners are not permitted to request specific timing or location for Sacramento River diversions.

### **3.6.3 Priority of Diversions**

The diversion of Sites Water from the Sacramento River will take priority over the release of water from Sites Reservoir using the I/O Works and over the diversion of Other Water (see Section 7.0). Each Storage Partner has equal priority to its share of diverted water consistent with its respective contract.

### **3.6.4 Losses During Diversions and Conveyance**

Anticipated and unanticipated water losses may occur during diversion and conveyance of Sites Water to Sites Reservoir from seepage, operational considerations, or emergency conditions, and similar occurrences. Sites Water diverted by the Authority will be allocated to Storage Partners in Sites Reservoir after losses during diversions and conveyance to Sites Reservoir have been accounted for. In

this way, anticipated and unanticipated water losses during diversions and conveyance are spread proportionally among all Storage Partners that are allocated Sites Water during the diversion period.

### **3.6.5 Deliveries During Diversions**

No delivery of Sites Water upstream of Sites Reservoir is allowed in the Sites Water Right. All Sites Water diverted must be placed into storage in Sites Reservoir first, minus any losses. Potential operational and delivery location flexibility may be provided through exchanges which are described in Section 8.0.

## **4.0 Storage in Sites Reservoir**

### **4.1 Sites Reservoir Storage Capacity**

The current estimate for Sites Reservoir storage capacity is 1,470,000 AF based on most current surveying data. Sites Reservoir storage space available to Storage Partners is 1,410,000 AF after considering an inactive storage pool volume of 60,000 AF.

Storage Partner Storage Allocations are based on each Storage Partner's Base Facilities Capacity Interest and field measurements of reservoir storage capacity, as updated from time to time. Following construction of Sites Reservoir, the actual storage volume will be measured and/or calculated. If the storage volume changes at any time, the available storage will be allocated to Storage Partners based on their Base Facilities Capacity Interest.

### **4.2 Losses from Storage**

Regular losses of water held in storage in Sites Reservoir are expected to result from, but are not limited to, evaporation and seepage. Periodic losses may occur from such things as, but not limited to, facility testing and releases during testing. Infrequent and unusual losses may occur from such things as, but not limited to, emergency releases and firefighting needs. The approach to assessing losses is yet to be determined and will be addressed in a future update to this Operations Plan. All losses of water held in Sites Reservoir storage—including evaporation and seepage—will be estimated on a daily basis. These losses will be allocated to each Storage Partner in proportion to the amount of water in storage that day. No losses will be allocated to the inactive storage pool unless it is the only water in the reservoir.

### **4.3 Inactive Storage Pool**

Sites Reservoir will have a physical inactive storage pool of approximately 11,250 AF, below which water cannot physically be removed from the reservoir using the I/O Works. However, the Authority is currently planning to operate to an operational inactive storage pool of 60 TAF under normal conditions.

When filling Sites Reservoir from the Sacramento River, the inactive storage pool (physical and operational) will be filled first. In the event that Colusa County's or other beneficiaries' Storage Allocation is not available or is full under the Colusa County MOU, then diverted Sites Water from Funks and Stone Corral Creeks, and their tributaries, and from the watershed of Sites Reservoir will be allocated first to fill inactive storage and second proportional to the Storage Allocation of all Storage Partners who have available Storage Allocation remaining. The cost of diverting and conveying water to fill and maintain the inactive storage pool volume will be distributed to Storage Partners based on their Base Facilities Capacity Interest.

Reservoir losses as described in Section 4.2 will not be applied to the inactive storage pool unless it is the only water in the reservoir.

## 4.4 Storage Allocation

Sites Reservoir storage is allocated to each Storage Partner proportionate to their Base Facilities Capacity Interest in their respective contract. Base Facilities Capacity Interest of each Storage Partner as of May 2023 is provided in Table 8. . This table will be removed from the Operations Plan in a future version and maintained as part of the real-time tracking and accounting described in Section 2.3.

It is important to note that the information provided in this table is for illustrative purposes only and based on participation as of May 2023. Reclamation is shown in the table as having a 9.1% Base Facilities Capacity Interest. However, Reclamation has indicated an interest in up to a 16% Base Facilities Capacity Interest. Future adjustments to this table are likely to accommodate this increased interest from Reclamation. Future adjustments to the table are also likely as Storage Partners finalize and execute their respective contracts. However, adjustments to the State Proposition 1 Ecosystem Benefits Base Facilities Capacity Interest are unlikely to occur as this account has been sized to provide the Proposition 1 Ecosystem benefits.

**TABLE 8. STORAGE PARTNER BASE FACILITIES CAPACITY INTEREST AND STORAGE ALLOCATION AS OF MAY 2023**

Storage Partner	Base Facilities Capacity Interest	Storage Allocation (AF)
Antelope Valley-East Kern Water Agency	0.2%	3,117
City of American Canyon	1.8%	24,936
Coachella Valley Water District	4.4%	62,340
Colusa County	4.4%	62,340
Colusa County Water District	4.1%	57,702
Cortina Water District	0.2%	2,805
Davis Water District	0.9%	12,468
Desert Water Agency	2.9%	40,521
Dunnigan Water District	1.3%	18,527
Glenn-Colusa Irrigation District	2.2%	31,170
Irvine Ranch Water District	0.4%	6,234
LaGrande Water District	0.4%	6,234
Metropolitan Water District of Southern California	22.1%	311,700
Reclamation District 108	1.8%	24,936
Rosedale-Rio Bravo Water Storage District	0.2%	3,117
San Bernadino Valley Municipal Water District	9.5%	133,408
San Geronio Pass Water Agency	6.2%	87,276
Santa Clara Valley Water District	0.2%	3,117
Santa Clarita Valley Water Agency	2.2%	31,170
Westside Water District	2.4%	33,508
Wheeler Ridge – Maricopa Water Storage District	1.3%	19,014

Storage Partner	Base Facilities Capacity Interest	Storage Allocation (AF)
Zone 7 Water Agency	4.4%	62,340
State (Proposition 1 Ecosystem Benefits)	17.3%	244,000
Reclamation	9.1%	128,020
<b>Total Storage Partner</b>	<b>100%</b>	<b>1,410,000</b>
Operational Inactive Storage Pool	--	60,000
<b>Total Storage Volume</b>		<b>1,470,000</b>

Notes:

1. Values as of May 19, 2023.
2. Base Facilities Capacity Interest is the proportionate share of Sites Water diverted that would be available to the Storage Partner for storage in their Storage Allocation.
3. Assumed total storage space available is 1,470,000 AF based on most current surveying data and allocation of "inactive storage pool" of 60,000 AF.
4. Downstream Facilities Capacity Share, including the Dunnigan Pipeline, will be allocated amongst the subset of Storage Partners using Downstream Facilities to convey water to their Secondary Point of Delivery.
5. Reclamation Base Facilities Capacity Interest and Storage Allocation based on a 9.1% participation level. Reclamation has indicated that it would like to participate at 16%. Future adjustments to this table are likely to accommodate this interest.

## 5.0 Releases from Sites Reservoir

### 5.1 Overall Project Releases

Project releases for the Storage Partners will generally occur in the late spring, summer, and fall months but could happen throughout the year. Export of Sites Water to Storage Partners SOD must occur during the CVP/SWP transfer window<sup>13</sup> each year. Sites Water deliveries to Storage Partners in the Delta and NOD, including Reclamation (as an exchange partner or investor) and DWR (as an exchange partner), can occur outside the transfer window. Further discussions of exchanges are included in Section 8.

### 5.2 Release and Conveyance Facilities

Releases from Sites Reservoir will be made through the I/O Works. The Delivery Point will be either Funks Reservoir or TRR, with Funks Reservoir being the primary Delivery Point for the majority of Storage Partners. Releases to Funks Reservoir may be used along the TC Canal, or continue through the TC Canal, then the Dunnigan Pipeline, then the Colusa Basin Drain where it will outflow to the Sacramento River or the Yolo Bypass. Releases to TRR and the GCID Main Canal are considered for use by GCID or as environmental water for wildlife refuges under Proposition 1. These facilities are shown in Figure 2 and Figure 3 and further described in Attachment B.

### 5.3 Releases to Funks and Stone Corral Creeks

In the construction of Sites Reservoir, Funks and Stone Corral Creeks will be impounded by the construction of the Golden Gate Dam and the Sites Dam, respectively. Releases will be made from Sites

<sup>13</sup> See footnote 1 on page 6.

Reservoir into Funks and Stone Corral Creeks to comply with California Fish and Game Code Section 5937 and to ensure no injury to downstream water right holders.

Detailed release schedules for releases into Funks and Stone Corral Creeks have not been developed due to lack of information on the conditions in these creeks. Field studies are and will continue being conducted as access is obtained and before final designs for Sites Dam and Golden Gate Dam are completed to determine the following:

- Existing fish assemblage in these creeks, including fish species presence and habitat use;
- Characterization of habitats available (e.g., spawning, rearing, foraging, and sheltering habitats) at varying flow levels;
- Characterization of flows, including assessing the base flow during the summer months;
- Conducting a fluvial geomorphologic study to characterize bed load and flow levels necessary for mobilization;
- Surface Water Ambient Monitoring Program technical study (i.e., bioassessment) that focuses on relationships between physical habitat, water quality, and benthic macroinvertebrates; and
- Hydrological studies to define flow temperature relationships.

Using information from these field studies, along with currently available information on water right holders downstream of the reservoir, and consistent with the operational agreements described below, the Authority will prepare a Funks and Stone Corral Creeks flow schedule that will be incorporated into this Operations Plan. The flow schedule will identify the approach for releases, including release schedules and volumes, a monitoring plan, and an adaptive management plan. Releases into these creeks will be made in consideration of the flood control benefits of the Project and will not overtop the stream banks and flood downstream areas unless required by emergency conditions as described in Section 11.0.

The operations agreements relative to Funks and Stone Corral Creeks described in Section 3.3.5 also have operational components related to releases to the creeks as described below. Note that this description does not summarize the respective agreement in its entirety, but rather focuses on the release-related operational components. Executed agreements can be found in Attachment A.

- Colusa County MOU – The amount of Sites Water diverted from Funks and Stone Corral Creeks will be the net amount stored in Sites Reservoir and is dependent on the required releases. Development of the flow schedule, coupled with monitoring and measurement of water released to the creeks, will be important to successful implementation of the MOU and will be addressed in a separate Measurement and Monitoring Plan that Authority staff are developing.
- Maxwell ID Agreement – In the event that diversions from Funks and Stone Corral Creeks affect Maxwell ID operations, the Authority will work with Maxwell ID to address the Project effects to Maxwell ID's operations. This may include increased releases of inflows from the creeks (i.e., passed through the reservoir) in consideration of Maxwell ID's existing water rights.<sup>14</sup>
- Anticipated Colusa Drain MWC Agreement – In the event that diversions from Funks and Stone Corral Creeks affect senior water user operations along the Colusa Basin Drain, increased

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<sup>14</sup> The Maxwell ID Agreement allows for the Authority and Maxwell ID to work out possible ways to address impacts to Maxwell ID's operations. This may include increased release of water into Stone Corral Creeks or other operational or monetary considerations.

releases of inflow will be made (i.e., passed through the reservoir) in consideration of existing senior water rights.

As with existing conditions, water released or passed through for environmental purposes into Funks Creek and Stone Corral Creek will be available for downstream water right holders after serving its environmental purpose(s), consistent with California water right law. In other words, releases being made for environmental purposes and downstream water right holders are not additive. The amount of water to be passed through in consideration of existing downstream water rights will not exceed the inflow from Funks or Stone Corral Creeks on any given day.

Releases into Funks Creek will be made through a new pipeline that terminates at Funks Creek below Golden Gate Dam that is designed to have an operating release range of 0 to 100 cfs into Funks Creek. Releases into Stone Corral Creek will be made through the permanent outlet at Sites Dam that is designed to have an operating release of 0 to 100 cfs, with an emergency release capacity of up to 4,700 cfs.

## 5.4 Release Criteria

Sites Water may be released for uses NOD or in Delta any time the I/O Works are not diverting water to storage. Sites Water for uses SOD will be released: (1) when the I/O Works are not diverting water to storage; (2) when the Delta is in Balanced conditions; and, (3) when opportunities exist for movement of non-CVP/SWP project water through the Delta Export Facilities if these facilities are planned for redirection of Sites Water (i.e., the transfer window). All releases of Sites Water are subject to downstream capacity constraints and need to be coordinated with TCCA/Reclamation and GCID, as appropriate. All releases of Sites Water for uses beyond the TC Canal and GCID Canal systems require coordination with Reclamation, DWR, and organizations along the lower Colusa Basin Drain, along with possible coordination with organizations along the Knights Landing Ridgecut and into the Yolo Bypass for any releases conveyed into these facilities. Coordination and notification procedures for releases will be developed in a future version of this Operations Plan.

To the extent possible, the I/O Works ports/tiers will be operated to meet a rice-growing temperature objective of 65°F or higher during the rice growing season (May through September) because cooler water temperatures may inhibit rice growth. When water of this temperature is not available, the Authority will target release flow temperatures to be greater than or equal to the water temperature in the TC Canal and/or GCID Canal. Information regarding this temperature objective is included in the Project Final EIR/EIS.

Releases shall meet the following requirements:

- Releases through the Knights Landing Outfall Gates (KLOG)
  - Releases through KLOG may not be conducted until a temperature monitoring and modeling study is conducted and results are approved by CDFW. Releases must then be implemented consistent with the approved final report. See Operations ITP Term 9.23.
  - Releases through KLOG may not be conducted until a Sacramento River dissolved oxygen (DO) study is conducted and results are approved by CDFW. Releases must then be implemented consistent with the approved final report. See Operations ITP Term 9.25.

- Releases through the Knights Landing Ridgecut
  - Releases to the Yolo Bypass via the Knights Landing Ridgecut shall only occur from August 1 to October 31. See Operations ITP Term 9.22.
  - Releases to the Yolo Bypass via the Knights Landing Ridgecut shall not result in water temperatures that would exceed 70 degrees F as measured at the Wallace Weir Fish Collection Facility. See Operations ITP Term 9.24.
  - No releases shall occur to the Yolo Bypass via the Knights Landing Ridgecut when dissolved oxygen (DO) levels in the Ridge Cut Slough at Highway 113 (Station A0D84761435)<sup>15</sup> are 5.0 mg/L or lower. Another station may be used or installed by the Sites Authority if Station A0D84761435 is not functional. See Operations ITP Term 9.26.
  - No releases shall occur to the Yolo Bypass via the Knights Landing Ridgecut if adult salmonids are present at the Wallace Weir Fish Rescue Facility. See Operations ITP Term 9.27.

Additionally, the redirection of Sites Project water at the Reclamation and DWR export facilities (Jones and Banks pumping plants) is subject to compliance with the objectives currently required of DWR and Reclamation set forth in Tables 1, 2, and 3 on pages 181 to 187 of State Water Board Revised Decision 1641 (D-1641), or any future State Water Board order or decision implementing Bay-Delta water quality objectives at those plants, including compliance with the various plans required under D-1641 as prerequisites for the use of the Joint Points of Diversion by DWR and Reclamation. Rediversion of water at the Clifton Court Forebay and the Jones Pumping Plant is also subject to compliance with all applicable biological opinions, Incidental Take Permits, court orders, and any other conditions imposed by other regulatory agencies applicable to these operations.

## 5.5 Storage Partner Release Requests, Delivery Locations and Losses

### 5.5.1 Release Requests

Storage Partners have discretion regarding the amount of water held in their Storage Allocation that they request to be scheduled for release for their use and will have control over the use of their Storage Allocation based on the conditions outlined in their respective contract.

Each Storage Partner shall provide the Authority with a projected request for the volume of Sites Water the Storage Partner would like to be released from the available supply in its Storage Allocation or other Storage Allocation leased or acquired in the format requested by the Authority (“Release Request Form”). An example Release Request Form is provided in Attachment E. The timing for providing an initial Release Request Form will be determined in a future version of this Operations Plan.

The Authority will work with DWR and Reclamation to schedule deliveries south of the Delta. Beginning in February of each year, operations of the reservoir, along with conditions in the Delta, will be

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<sup>15</sup> Ridge Cut Slough at HWY 113 – (Station A0D84761435) - <https://wdl.water.ca.gov/WaterDataLibrary/StationDetails.aspx?Station=A0D84761435&source=map>

reevaluated at least weekly. From such analysis, the Authority will update release and delivery schedules and will coordinate with Storage Partners should any conflicts arise.

#### *5.5.1.1 Conveyance Capacity*

Project releases to the CBD may be constrained by capacity in both the Dunnigan Pipeline and the lower CBD. Exports to south of Delta may be further constrained by export capacity or other Delta operating restrictions. If it is anticipated that releases are constrained, the Authority will coordinate closely with Storage Partners, DWR, Reclamation, TCCA, GCID, and entities along the lower CBD in an attempt to meet the requested water release schedules. If there is a release constraint that will affect the ability to meet the requested schedules, the Authority will work with the conflicted Storage Partners to determine whether accommodations can be made. If the conflict cannot be resolved, releases will be made in proportion to the Downstream Facilities Capacity Share attributable to the conflicted Storage Partners thereby providing Storage Partners with Downstream Facilities Capacity Share equal priority for releases.

Storage Partners with Downstream Facilities Capacity Share have first priority to the available conveyance capacity in the Downstream Facilities. Storage Partners without Downstream Facilities Capacity Share have second priority for conveyance of releases through the Downstream Facilities. Storage Partners without Downstream Facilities Capacity Share will need to use unused capacity and may need to adjust their schedule to avoid constraints. Wheeling costs through Downstream Facilities are still being discussed and will be described in a separate document.

#### *5.5.1.2 Low Storage Level Considerations*

As Sites Reservoir is new and not yet constructed, there is uncertainty as to water quality at low reservoir elevations. If poor water quality conditions occur at low reservoir elevations, then management actions may be needed to ensure that releases into Funks Reservoir, TRR and/or Funks and Stone Corral Creeks continue to be of sufficient quality<sup>16</sup> and that the Authority can meet all Applicable Laws and Governmental Approvals.

The Authority will annually conduct an analysis of projected reservoir elevations with anticipated Storage Partner release requests. If projected reservoir elevations are estimated to reach or go below elevation 358 feet or approximately 173,500 AF of storage (which corresponds with 30 feet above the 60,000 AF operational inactive storage pool elevation), then the Authority will conduct additional evaluation to determine if water quality issues are likely to occur such that the Authority may not be able to make all requested releases and meet all Applicable Laws and Governmental Approvals. If this analysis determines that the Authority may not be able to make all requested releases and meet all Applicable Laws and Governmental Approvals, then meeting all Applicable Laws and Governmental Approvals will take priority over Storage Partner requested releases. In this situation, Storage Partner requested releases may need to be reduced, postponed, or ceased to ensure that the Authority can comply with all Applicable Laws and Governmental Approvals. If Storage Partner requested releases are reduced, release amounts will be in proportion to Base Facilities Capacity Interest. If Storage Partner requested releases are postponed or ceased, then the Reservoir Committee and/or Authority Board, as appropriate, will determine how best to equitably address this situation.

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<sup>16</sup> This uncertainty was addressed in Chapter 6, Surface Water Quality, of the Final EIR/EIS and in Appendix 2D.



It is important to note that low storage levels occur infrequently in the Project modelling. Low storage levels will develop over time (months or possibly a year or more) such that there will be time to plan and adjust. The Project Final EIR/EIS and Reservoir Management Plan (to be developed) include monitoring actions within and downstream of the reservoir that will inform the analysis called for in this section.

## 5.5.2 Release Order Adjustments

The Authority will provide regular updates on the scheduling of releases and deliveries. Storage Partners may request changes to their initial releases request. The timing and frequency of changes allowed to the Release Request Form will be determined in a future version of this Operations Plan. Current considerations for changes to requested releases include the following.

- Storage Partners receiving water not conveyed through Dunnigan Pipeline – It is anticipated that increases or decreases in requested release amounts can be accommodated with one (1) week advance notice.
- Storage Partners receiving water downstream from Dunnigan Pipeline, not through Delta Export Facilities – It is anticipated that decreases in requested release amounts can be accommodated with one (1) week advance notice. Increases in requested release amounts are anticipated to be needed by the 15th of the preceding month (e.g., an increase in September releases must be requested by August 15).
- Storage Partners receiving water through Delta Export Facilities – It is anticipated that decreases in requested release amounts can be accommodated with one (1) week advance notice. Increases in requested release amounts are anticipated to be needed by the 15th of the preceding month (e.g., an increase in September releases must be requested by August 15) and are subject to approval by DWR and/or Reclamation, as applicable.

Weekly releases, particularly for those deliveries that must be exported through the Delta, are highly dependent on coordination with DWR and Reclamation. The Authority may shift weekly deliveries as needed. The Authority will notify Storage Partners of any shifts, should they occur.

## 5.5.3 Deliveries and Losses

The Delivery Point for all Storage Partner releases will be either Funks Reservoir or TRR. The Sites Authority will convey Water beyond the Delivery Point through Base and Downstream Facilities in accordance with Partner Agreements described in Section 9.0 and any other agreements that are relevant to Downstream Facilities. Releases from Sites Reservoir downstream from the Delivery Point are subject to conveyance losses, including but not limited to conveyance losses in the TC Canal, lower Colusa Basin Drain, Sacramento River, Knights Landing Ridgecut, Yolo Bypass, and carriage water<sup>17</sup> associated with export of water from the Delta Export Facilities, as appropriate.

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<sup>17</sup> Carriage Water is the additional water needed for Delta outflow to compensate for the additional export of Sites Water to assure compliance with the water quality requirements of the SWP and CVP. DWR and Reclamation will determine the amount of Carriage Water that is needed for the Sites Water releases to the Sacramento River for SOD water users in a similar manner as DWR and Reclamation calculate Carriage Water for water transfers originating from the Sacramento River. The methodology for determining Carriage Water will follow similar principles as described in the Draft Carriage Water Overview for Non-Project Water Transfers, dated October 2019, and as updated. See [https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/State-Water-Project/Management/Water-Transfers/Files/Draft\\_CarriageWaterOverview\\_20240215.pdf](https://water.ca.gov/-/media/DWR-Website/Web-Pages/Programs/State-Water-Project/Management/Water-Transfers/Files/Draft_CarriageWaterOverview_20240215.pdf).

The Sites Water Right allows for the redirection of Sites Water at a number of facilities located throughout the state which are anticipated to be used as Secondary Delivery Point(s) – termed points of redirection in the Sites Water Right. However, the Authority has not obtained all of the agreements necessary to redirect Sites Water at each of these locations. Prior to the operations of the Project, the Authority will work with Storage Partners to determine the preferred facilities for redirection of Sites Water, the appropriate entity to establish agreements for the redirection of Sites Water at each location, and establish agreements with those entities as necessary to facilitate the delivery of Sites Water to the Storage Partner.

Storage Partners may specify a Secondary Delivery Point(s) in their respective Release Request Form. The Authority will review the Secondary Delivery Point(s) to ensure that delivery of Sites Water is consistent with the Sites Water Right. Identification of Storage Partner’s Secondary Delivery Point(s) for the year will also provide key information needed by the Authority to evaluate Downstream Facilities capacity availability, consider timing of deliveries to all Storage Partners, and coordinate with DWR and/or Reclamation for redirection at Delta Export Facilities. The Sites Authority may take actions reasonably practicable to assist Storage Partners in conveying their Water to a Secondary Delivery Point(s). Such actions taken by the Sites Authority are subject to Applicable Law, Governmental Approvals and Partner Agreements. Storage Partners shall bear all costs (monetary or otherwise), the risk of loss and any shortfall or reduction in water between the Delivery Point and the Secondary Delivery Point(s).

Costs (monetary or otherwise) associated with the Authority’s efforts to convey water to a Secondary Delivery Point, including equitable distribution of costs, cost recovery, and similar, will be addressed in a separate document. In addition, wheeling costs, including those wheeling costs through Downstream Facilities will be addressed in a separate document.

## **5.6 Releases to Satisfy Terms of Operations Agreements**

Although expected to be infrequent, releases may be necessary to satisfy the terms of existing operations agreements. These releases would occur consistent with all Applicable Laws and Governmental Approvals. These releases will have priority over all other releases as these releases are necessary for the Project to comply with Applicable Laws and/or Governmental Approvals. Releases to satisfy the terms of existing operations agreements are expected to be infrequent as actions in the operations agreements are intended to avoid circumstances which would result in the need for “payback” releases. As such, the Reservoir Committee and/or Authority Board, as appropriate, will determine how best to equitably, based on beneficiary pays principles, address costs, including wheeling costs, and how to account for such releases among the Storage Partners (including adjusting the amount of water in Storage Partners’ Storage Allocations to make such releases available).

## **6.0 Sites Water Sales or Exchanges**

Storage Partners may sell or exchange their Sites Water to other Storage Partners or other entities. The terms of sales or exchanges of Sites Water are at the sole discretion of the Participant. The concepts of specific exchanges are still being developed and additional detail will be included in a future version of the Operations Plan. The Authority will continue to endeavor to ensure all details of any potential exchange maintain compliance with all Applicable Laws and Governmental Approvals.

The Authority will develop and maintain a database accessible to other Storage Partners where individual Storage Partners can identify their interest in a sale or exchange of Sites Water or leasing or

sale of Capacity Interest (both buyers and sellers). Participation in the database will be voluntary and is only intended to facilitate connection of interested parties in these transactions.

Terms of a sale or exchange must not negatively impact other Storage Partners' rights to store or convey water consistent with their respective contract. The factors that determine what constitutes a negative impact to other Storage Partners will be reflected in a subsequent version of this Operations Plan. Any sale or exchange of Sites Water cannot negatively impact the Sites Water Right. The selling entity should also consider that if the Authority is to convey the sold water to a Secondary Delivery Point, this action will need to be consistent with all relevant Applicable Laws and Governmental Approvals for the Sites Project.

Following agreement between the two entities, notice of the sale or exchange shall be provided to the Authority so that Project operations and Water accounting may be maintained.

## 7.0 Other Water

The respective Storage Partners' contracts are anticipated to allow for the diversion, storage and release of Other Water (water not appropriated under the Sites Water Right) in Project facilities in the future, subject to compliance with all Applicable Laws and Governmental Approval. The Authority will take reasonable steps to facilitate these requests. The use of Project facilities for Other Water will be addressed and considered by the Authority on a case-by-case basis, subject to compliance with all Applicable Laws and Governmental Approvals. The use of Project Facilities for Other Water must not negatively impact other Storage Partners' rights as set forth in the B&O Contract or the State and Federal Contracts (as applicable).

## 8.0 Exchanges

The operation of the Project includes the potential for exchanges of water with the CVP and SWP. Exchanges have the potential to assist the CVP and SWP in meeting their regulatory obligations and their authorized purposes including to protect, restore and enhance fish, wildlife, and associated habitats, provide water supply and generate power. Exchanges would only be conducted when they would be neutral or net beneficial to CVP and SWP operations and not affect the ability of the CVP or SWP to meet applicable laws, regulations, biological opinions and incidental take permits, contractual deliveries, and court orders in place at the time. The exchanges are expected to primarily occur with Lake Oroville. Exchanges are also expected to take place in real-time with local Storage Partners.

All exchanges contemplated by the Authority can be accomplished through the Sites Water Right and existing water rights of the SWP and CVP.

A Storage Partner's, DWR's, Reclamation's, and any real time exchange partner's participation in any exchange is voluntary. Exchanges are not mandatory on any party.

- Real-time exchanges will be used to support timing of releases and deliveries to Storage Partners north and south of the Delta. These exchanges will be initiated by Storage Partner and are expected to help minimize capacity constraints along the Dunnigan Pipeline as well as the delivery of water to Storage Partners upstream of the release facilities.
- Exchanges with Oroville will be used primarily to increase flexibility and yield of Sites Reservoir. Upon request of a Storage Partner, and contingent on approval by DWR, water would be

released from Sites Reservoir to meet SWP purposes, resulting in reduced releases from Lake Oroville which would be stored for use later in the year.

Attachment D provides additional information regarding exchanges and the associated operational parameters.

Exchanges must meet the following parameters<sup>18</sup>:

- Be consistent with the Operations ITP. See Operations ITP Term 9.18.
- Exchanges with Oroville Reservoir may not result in DWR not meeting its regulatory requirements. See Operations ITP Term 9.20.
- Exchanges may not be conducted until a Water Exchange and Temperature Management Plan is developed and approved by CDFW. Exchanges must then be implemented consistent with the approved Water Exchange and Temperature Management Plan. See Operations ITP Term 9.21.

## 9.0 GCID and TCCA Considerations

The Authority intends to enter into Partner Agreements with GCID and TCCA. Because the RBPP and TC Canal are owned by Reclamation, the agreement with TCCA will be in addition to an Excess Capacity Contract required for the use of federal facilities. Close coordination will be required between the Authority and operators at TCCA and GCID.

The Authority will make decisions on when and how much water to divert at RBPP and Hamilton City Pump Station for the purposes of the Project. Similarly, the Authority will make the decision on when and how much water to release from Sites Reservoir to a specific location (Funks Reservoir or TRR). These decisions cannot be delegated to GCID and TCCA but must be made in close coordination with TCCA and GCID. As they currently do, TCCA and GCID will continue to own and operate their facilities, including the diversion of Sites Water and conveyance of Sites Water in their facilities to either Funks Reservoir or TRR and, upon release of Sites Water, from either Funks Reservoir or TRR to the location requested by the Authority.

Operation of the Project and use of capacity in partner facilities must not negatively impact TCCA and GCID's ability to meet existing legal and contractual obligations or negatively impact their regular customers.

### 9.1 Coordination

The Authority will coordinate annually with TCCA and GCID on diversion and release schedules of Sites Water, availability and scheduling of exchanges, and planned maintenance windows and conveyance facility downtime. The purpose of this annual coordination is to share information and begin planning for opportunities and constraints anticipated in the upcoming year. The timing of this annual coordination will be addressed in a future version of this Operations Plan.

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<sup>18</sup> Exchanges with Shasta Lake have been removed from this Operations Plan consistent with Reclamation's request. It is noted that if these are implemented in the future, exchanges with Shasta Lake may not result in Reclamation not meeting its regulatory requirements. See Operations ITP Term 9.19.

It is also anticipated that the Authority, TCCA, and GCID will develop a coordination procedure and coordination templates to quickly and efficiently coordinate operations on a monthly, weekly and daily basis.

### **9.1.1 TCCA Coordination**

Daily operations will be coordinated closely with the Red Bluff and Willows Offices of TCCA. In particular, operations will be closely coordinated in the shoulder and transition seasons, when diversions for the Project are occurring at the same time as diversions and deliveries for TCCA contractors. Close operations will also be necessary for frost water, which could occur when the Project is diverting and may require water to pass through Funks Reservoir for TCCA users on the downstream portion of the TC Canal. TCCA will remain the lead operator for the RBPP and the TC Canal. The Authority will have an operator responsible for the diversions into Sites Reservoir at Funks via the Funks PGP. TCCA operations will take priority over Sites operations, although the two entities will coordinate closely to adjust operations to achieve operational objectives.

The Authority operator will also be responsible for the releases from Sites Reservoir to Funks Reservoir for downstream conveyance. These releases will be coordinated with TCCA operations to ensure the appropriate flow of TC water passes through Funks Reservoir for TCCA users downstream in addition to the Water released from Sites Reservoir for delivery to Storage Partners.

It is anticipated that the Project's Supervisory Control and Data Acquisition (SCADA) system will also duplicate some of the TCCA system. This will allow logic and alarms to respond appropriately to changing conditions at the RBPP, along the TC Canal, and in Funks Reservoir. The Authority will work with TCCA in responding to any emergency operations required, and coordination with TCCA will be included in Project's Emergency Action Plan.

### **9.1.2 GCID Coordination**

Daily operations will be coordinated closely with GCID's operations in Hamilton City. In particular, operations will be coordinated during the shoulder and transition seasons, when diversions for the Project are occurring at the same time as deliveries for GCID. Close operations will also be necessary for real-time exchanges, when GCID will receive water from the Project in lieu of diversions from the Sacramento River. GCID will remain the lead operator of the Hamilton City Pump Station and the GCID Main Canal. The Authority will have an operator responsible for the diversions into the Sites Reservoir at TRR via the TRR PGP. GCID operations will take priority over Project operations, although the two entities will coordinate closely to adjust operations to achieve operational objectives.

The Authority operator will also be responsible for the releases from Sites Reservoir to TRR. These releases will be coordinated with GCID operations.

It is anticipated that the Project's SCADA system will also duplicate some of the GCID system. This will allow logic and alarms to respond appropriately to changing conditions at the Hamilton City Pump Station, along the canal, and in the TRR. The Authority will work with GCID in responding to any emergency operations required, and coordination with GCID will be included in Project's Emergency Action Plan.

## **9.2 Losses**

TCCA, GCID and the Authority will determine a process to agree upon reasonable loss rates for water transportation losses in partner facilities. Changes in loss assumptions will go through a process of verification and approval. Losses will be addressed in a future version of this Operations Plan.

## **10.0 Coordination with CVP and SWP**

Success of the Project requires close coordination with Reclamation and DWR. The Authority is currently developing the Anticipated Sites/Reclamation/DWR Operations Agreement with these agencies to address issues related to operations of the Project. Through the implementation of this agreement, it is expected that the Project will cooperatively interface with the existing and ongoing real-time decision-making processes. The goal is to avoid adverse effects and, potentially, provide benefit to CVP and SWP facilities, operational plans, listed species, public health, safety, and water supply reliability.

The anticipated Operations Agreement will be focused on day-to-day coordination and communications protocols and procedures among the parties to ensure compliance with the proposed water right permit term. The Authority, DWR, and Reclamation are engaged in technical discussions to evaluate coordination and communications protocols and continue to work towards finalizing the Operations Agreement. It is expected that the final Sites/Reclamation/DWR Operations Agreement, to implement the Sites Project water right term and condition, would be executed prior to Sites Storage Partners executing contracts with the Authority for Capacity Interest in the Sites Project, which is expected to occur after the receipt of critical permits and approvals, including the final water right decision.

## **11.0 Other Considerations**

### **11.1 Emergencies**

The Project includes the design and operation of facilities to meet California Division of Safety of Dams (DSOD) criteria and requirements for emergency reservoir drawdown. Emergency releases will be governed by the Project's Emergency Action Plan, which is required by law and is prepared as part of the DSOD review and approval process; the details of emergency release are not covered here. The Reservoir Committee and/or Authority Board, as appropriate, will determine how best to equitably share losses due to emergency releases, if any occur in the future.

### **11.2 Flood Situations**

The Project will provide flood damage reduction benefits to portions of Colusa County, including the town of Maxwell and the surrounding agricultural areas. The Authority is intending to receive Proposition 1 funds in exchange for providing these benefits. The Authority is currently negotiating a Flood Adaptive Management Plan for the purposes of the Public Benefits Contract required under Proposition 1 and will be developing certain design considerations for review and approval by the DWR, Division of Safety of Dams. The Authority currently anticipates that the flood damage reduction benefits being paid for by Proposition 1 will be provided when the reservoir is operated within the normal operating reservoir levels, and thus the parameters developed below are intended to ensure that compliance is not expected to infringe on any Storage Partners capacity rights.

While the specific operational details of the flood benefit AMP are currently being developed, the Authority anticipates that it may need to maintain *empty* storage space during the flood season (“Flood Storage Space”); in an amount that is sufficient to capture potential incoming water from the Funks Creek and Stone Corral Creek watershed and provide the Project’s flood damage reduction benefits. The Authority may address the need for Flood Storage Space in the following ways:

1. If Sites Reservoir is not full and not near full, then any necessary Flood Storage Space would occupy unused Storage Partner Storage Allocations.
2. If Sites Reservoir is near full, diversions from the Sacramento River are ongoing, and these diversions will encroach into the necessary Flood Storage Space, then the Authority will ramp down or cease Sacramento River water diversions. In this situation, the Authority will track how much Sacramento River water could have been diverted and allocated to Storage Partner(s), by each individual Storage Partner, up to each Storage Partner’s Storage Allocation or maximum request in their Storage Opportunity Request Form. This amount will be allocated on a daily basis and will be tracked as “removed” from the inactive storage pool. In this situation, the Storage Partners allocated water from the inactive storage pool will incur a variable cost for the Water that was allocated from the inactive storage pool that is equal to the average cost of diversions for all other Storage Partners.
3. If Sites Reservoir is near full or is full such that water needs to be released to create the Flood Storage Space, then any necessary Flood Storage Space would be created through either method:
  - Voluntary means, such as encouraging Storage Partners to release previously stored Water from their Storage Allocation in sufficient quantities to create the necessary Flood Storage Space. In this situation, those Storage Partners that voluntarily release water will be credited for Sacramento River diversions and will need to pay the variable cost in the same way as described above in #2, up to the initial amount of water released for the purposes of creating Flood Storage Space.
  - Authority will release water from the inactive storage pool to create any necessary Flood Storage Space. In this situation, refilling of the inactive storage pool will continue to be consistent with Section 3.6.1.

Situations could also arise in which both strategies 2 and 3 are used in combination. For example, if a total of 30,000 AF of Flood Storage Space is needed and there is 20,000 AF of empty capacity available for Flood Storage Space. An additional 10,000 AF of Water would need to be released either through voluntary means or from the inactive storage pool (situation #3 above) to create the total 30,000 AF of Flood Storage Space needed. In this scenario, some Storage Partners may also be prevented from fully filling their Storage Allocation to ensure that the Flood Storage Space is maintained (20,000 AF in this scenario) as the Project’s Sacramento River diversions would cease. Crediting this lost opportunity to fill a Storage Partners Storage Allocation would follow situation #2 above.

As described previously, the Authority is currently negotiating a Flood Adaptive Management Plan for the purposes of the Public Benefits Contract required under Proposition 1. This section will be revisited once the Flood Adaptive Management Plan and Public Benefits Contract are in their final stages to ensure consistency, and confirm and finalize the approach proposed. In addition, the Authority staff are considering what components of the above concepts should also be reflected in the B&O Contract and the State and Federal Contracts.

The Authority will work with local, state, or federal entities in the future to adjust operations to protect life and property in flood situations.

### **11.3 Recreation and Power**

The Project's recreation benefits, power use, and power generation benefits are secondary to the Project's water supply and flood damage reduction benefits. However, to the extent possible consistent with this principle, the Authority will work to schedule Project activities to be considerate of recreational uses along with working to minimize power use and maximize power production.

## **12.0 Changes to this Operations Plan**

This Draft for Distribution Version 2.2 of the Operations Plan is being provided to the Storage Partners and made available to the public for review and input. The Final Version 2.3 is expected to be considered by the Authority's Reservoir Committee and Board of Directors in late summer/fall 2026.

This Operations Plan will continue to be updated as details surrounding Project permits, including the water right, are further defined. Subject to the Authority Bylaws and the Sites Joint Powers Authority Agreement, changes to the Operations Plan are subject to approval by the Reservoir Committee and the Board of Directors (as applicable) as described in the Authority Bylaws. Prior to any such approval, the prior version of the Operations Plan shall remain in full force and effect.



# **Attachment A**

## **MOUs and Agreements Related to Project Operations**

The following MOUs and agreements have been executed by the Authority and are included herein:

- Memorandum of Understanding Between Colusa County and the Authority Regarding Area of Origin Water Rights Claims to Funks and Stone Corral Creeks, and Related Matters dated November 22, 2021 (Colusa County MOU);
- Agreement between the Authority and Contra Costa Water District to Coordinate in the Operations of the Sites Reservoir Project dated December 20, 2023 (CCWD Agreement);
- Agreement between the Authority and Maxwell Irrigation District to Avoid Impacts of Sites Reservoir Project to Maxwell Irrigation District Water Rights dated April 9, 2024 (Maxwell ID Agreement);
- Memorandum of Understanding Between the North Delta Water Agency and the Authority dated August 30, 2023 (NDWA MOU); and
- Settlement Agreement between the Authority, the State Water Contractors, and the Department of Water Resources dated June 7, 2024 (Sites/SWC/DWR Settlement Agreement).

Additional MOUs and agreement will be added in the future as described in Section 1.0 of this Operations Plan as they are completed and executed by the Authority.

**Memorandum of Understanding Between Colusa County and the Sites Project Authority  
Regarding Area of Origin Water Rights Claims To Funks and Stone Corral Creeks,  
and Related Matters**

This Memorandum of Understanding (MOU) is between the County of Colusa, a political subdivision of the State of California (County), and the Sites Project Authority (SPA), a joint powers authority formed and operating under California law, regarding the County's area of origin water rights claims to Funks Creek and Stone Corral Creek within the County, and related matters as detailed in this MOU. The County and SPA each may be referred to herein as a "Party" and are collectively referred to herein as the "Parties." This MOU shall become effective upon the date last signed and shall remain in effect until terminated.

**Recitals**

A. The SPA was formed on August 26, 2010 when seven regional entities, including the County, executed the Joint Exercise of Powers Agreement. The primary purpose of the SPA is to pursue the development and construction of the Sites Reservoir Project (Project), which has long been viewed as an ideal location within the County for additional offstream storage to provide direct and real benefits to instream flows, the Delta ecosystem, and water supply both within and outside the County.

B. The SPA is currently preparing a water rights application and related filings for the Project, which the SPA intends to submit to the State Water Resources Control Board (SWRCB) in December 2021. This water rights application will identify the Sacramento River, as well as Funks Creek and Stone Corral Creek which are situated within the County, as sources of supply for the Project.

C. Under applicable case law and state statutes, the County can assert area of origin water rights claim to water sources originating within the County's boundaries in order to meet the County's current and future water supply needs.

D. The County and the SPA desire to cooperate to address the County's potential area of origin claims to Funks Creek and Stone Corral Creek, and demonstrate the County's support for the Project.

E. The County is a member of the SPA's Reservoir Committee and is anticipated to fund and receive a Storage Allocation in Sites Reservoir and the resulting water supply or water supply related environmental benefits from the Project.

NOW, THEREFORE, the Parties agree as follows:

**Operative Terms**

1. The SPA will identify Funks Creek and Stone Corral Creek as sources of supply in the SPA's water rights application for the Project.

2. The SPA and the County will develop a mutually agreeable method for determining and measuring the annual amount of water from Funks Creek and Stone Corral Creek that is diverted to storage and impounded by the Project. The SPA will allocate this water to the County up to the County's water Storage Allocation available in the Project, after subtracting any releases of this water that may be required to meet downstream conditions in those creeks pursuant to the SPA's expected water right permit.

3. The SPA and Colusa County recognize that there is uncertainty in the amount of water that may need to be released into Funks Creek and Stone Corral Creek, while taking into consideration their historical water flows, to meet downstream conditions in those creeks pursuant to SPA's expected water right permit. The SPA and Colusa County further recognize that the SWRCB will make the final decision on these conditions. SPA will coordinate and collaborate with Colusa County in developing the proposed conditions. If there is an inconsistency between the SWRCB's final determination of the conditions and any conditions agreed to by the Parties in advance of the SWRCB's final determination, SPA and Colusa County will meet and confer to resolve such inconsistency.

4. The County must have available Storage Allocation, including leased Storage Allocation, if any, to store the water from Funks Creek and Stone Corral Creek. In the event that the County does not have sufficient Storage Allocation, including leased Storage Allocation, to store water from Funks Creek and Stone Corral Creek, then any flows from these creeks will be allocated proportionally to all Storage Partners in a manner consistent with the SPA's 2021 Storage Principles or successor document approved by the SPA until the County has sufficient Storage Allocation.

5. Any operating variable costs and power generation revenue, if any, associated with storing and releasing the Funks Creek and Stone Corral Creek water allocated to the County's Storage Allocation will be paid by or credited to Colusa County in a manner consistent with all other water stored in the Project. It is anticipated that there will be no significant incremental capital cost or fixed costs associated with storing the Funks Creek and Stone Corral Creek water beyond the capital costs and fixed costs allocated to the County as a Storage Partner in Sites Reservoir.

6. Any evaporation or seepage factor assumed for any other water stored in the Project will apply to the Funks Creek and Stone Corral Creek water allocated to the County's Storage Allocation in a manner consistent with all other water stored in the Project.

7. The Funks Creek and Stone Corral Creek water allocated to the County's Storage Allocation will be considered part of the SPA's water rights for the Project, however, under the SPA's 2021 Storage Principles or successor document as approved by the SPA, such water will be specially designated as being held solely in the County's Storage Allocation and the County will be afforded the ability to manage that water in the reservoir consistent with the Storage Principles. The County will be responsible for using the Funks Creek and Stone Corral Creek water within the terms and conditions allowed in the SPA's water right and for providing the SPA with any information it may need to comply with reporting or other requirements.

8. The County confirms that upon the performance and implementation of the terms and conditions in the preceding Paragraphs 2 through 7, and for as long as the Project is in development and operation, the County will not initiate or pursue any area of origin water rights claims to water from Funks Creek or Stone Corral Creek.

9. Upon execution of this MOU, the County will prepare and provide a letter to the SWRCB expressing the County's support for the water rights application for the Project.

10. The County will make reasonable efforts to secure Glenn County's concurrence with the approach and commitments set forth in this MOU, and to obtain a similar support letter from Glenn County for the SPA's water rights application. The County agrees to enter into any necessary agreements with Glenn County and will make the County's Storage Allocation available for storing any agreed upon portion of Funks Creek and Stone Corral Creek water for Glenn County's use.

11. In the event that any party in either Colusa or Glenn County asserts area of origin claims to water in Funks Creek or Stone Corral Creek, the County will make reasonable efforts to work with said claimant to find a solution that avoids the claimant's participation in the SPA's water right application and permit process.

12. Any notice, demand, request, consent, approval or communication that any Party desires or is required to give to the other Party shall be in writing and either served personally or sent prepaid, first-class mail, or to the authorized email address of the agreed upon representative of the Party. Notice shall be deemed communicated within 48 hours from the time of mailing or email, excluding weekends and holidays.

13. This MOU constitutes the complete and exclusive statement of understandings between the Parties. All prior written and oral communications, including correspondence, drafts, memoranda, and representations, are superseded in total by this MOU.

14. This MOU may be modified or amended only by a written document executed by the Parties and approved as to form by Colusa County Counsel.

15. This MOU may be executed in counterparts, each of which shall constitute one and the same instrument and shall become binding upon the Parties. In approving this MOU, it shall not be necessary to produce or account for more than one such counterpart.

16. If any provision of this MOU is held to be invalid, void, or unenforceable, the remainder of the provision and/or provisions shall remain in full force and effect and shall not be affected, impaired or invalidated.


**COUNTY OF COLUSA**

  
Chair of the Board of Supervisors

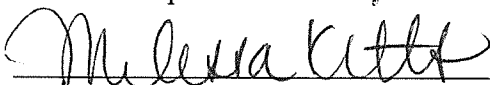
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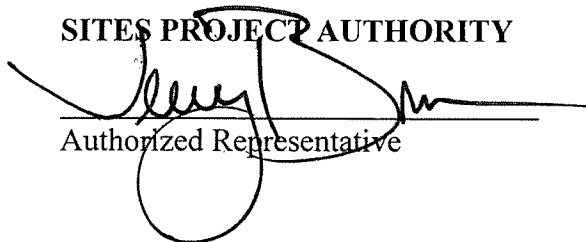
**APPROVED AS TO FORM**

  
\_\_\_\_\_  
Richard Stout, Colusa County Counsel

**ATTEST:** Wendy G. Tyler, Clerk to the  
Board of Supervisors

  
\_\_\_\_\_  
Melissa Kitts, Deputy

**SITES PROJECT AUTHORITY**

  
\_\_\_\_\_  
Authorized Representative

Date: NOVEMBER 22, 2021

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AGREEMENT BETWEEN  
THE SITES RESERVOIR JOINT POWERS AUTHORITY AND  
CONTRA COSTA WATER DISTRICT  
TO COORDINATE IN THE OPERATIONS OF THE SITES RESERVOIR  
PROJECT

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THIS AGREEMENT is made this 20<sup>th</sup> day of December, 2023, between the Sites Project Authority, herein referred to as the "Sites Authority" and Contra Costa Water District, herein referred to as "CCWD." The Sites Authority and CCWD may be referred to individually as "Party" or collectively as "Parties."

**RECITALS**

- A. The Sites Authority was formed on August 26, 2010, when seven regional entities executed the Joint Exercise of Powers Agreement. The primary purpose of the Sites Authority is to pursue the development and construction of the Sites Reservoir Project (Sites Project), which has long been evaluated as an off-stream storage project to provide direct and real benefits to instream flows, the Delta ecosystem, and water supply throughout the State.
- B. To comply with the California Environmental Quality Act (CEQA) and its implementing Guidelines, the Sites Authority released a Final Environmental Impact Report (Final EIR) for the Sites Project on November 2, 2023. The Authority certified the Final EIR and adopted the Project with Board Resolution 2023-02 at its November 17, 2023 meeting.
- C. The Sites Authority filed a water right application with the State Water Resources Control Board (State Water Board) to appropriate water for the Sites Project on May 10, 2022, and supplemented this application with materials on January 6, 2023. The State Water Board issued notice of the application on June 2, 2023, and the noticing period closed on August 31, 2023.
- D. CCWD supplies drinking water to approximately 550,000 people and industries throughout north-central Contra Costa County. CCWD relies solely on water diverted through its intakes in the Sacramento and San Joaquin River Delta (Delta) for its water supply.
- E. CCWD operates four intakes in the Delta, Mallard Slough, Rock Slough, Old River, and Middle River Intakes. CCWD also owns and operates Los Vaqueros Reservoir (LV) in Contra Costa County.



- F. CCWD operates LV and the intakes to provide high quality, low salinity water to its customers at the lowest cost possible. The amount, timing, and location of CCWD's diversions depend on the quality of water at each intake. CCWD diverts high-quality water when it is available in the Delta and stores it in LV to be delivered to CCWD's service area when water quality in the Delta is degraded, or when CCWD's water supply is interrupted or limited by droughts or emergencies.
- G. The Los Vaqueros Reservoir Joint Power Authority is contemplating the Phase 2 Expansion for the Los Vaqueros Reservoir Project. The Phase 2 Expansion would increase the capacity of LV up to 275,000 acre-feet and will serve as a regional water storage and conveyance project to improve Delta ecosystem conditions and reduce conflict among beneficial uses of Delta water supplies.
- H. CCWD has raised concerns that Sites operations could negatively impact Delta water quality, require changes in CCWD operations, and interfere with CCWD's ability to exercise its water rights to the full extent permitted by law. On January 28, 2022, and November 16, 2023, CCWD submitted comments on the Sites Project Revised Draft EIR/Supplement Draft EIS. CCWD has also protested the Sites Authority's water right application on August 31, 2023.
- I. The Sites Project is uniquely situated relative to CCWD's existing water diversion facilities in the Delta, and through the application of coordinated operation principles and practices, the Parties have determined that 1) shared goals can be accomplished for mutual benefit, and 2) the ability of an individual Party to avoid interfering in another Party achieving its operational goals can be achieved through mutually agreed upon coordination.
- J. The Parties desire to coordinate to ensure each Party can achieve its operational goals to the maximum extent possible without interfering with each other, develop standard operating procedures to assess potential impacts, and avoid anticipated impacts or compensate for actual impacts.

## **AGREEMENT**

The Sites Authority and CCWD agree to the following:

### **1. DEFINITIONS**

The following terms are defined below under this Agreement:

- a. "COA" means the "Agreement between the United States of America and the State of California for Coordinated Operations of the Central Valley Project and the State Water Project" dated November 24, 1986, and updated December 12, 2018.

- b. "Delta" means the Sacramento-San Joaquin River Delta.
- c. "Excess Conditions" means periods when releases from upstream reservoirs plus unregulated flow exceed the water supply needed to meet Sacramento Valley in-basin uses, Delta water quality outflow requirements, and Delta exports, as defined in COA.
- d. "Export" means water pumped from the Delta through the C.W. "Bill" Jones Pumping Plant or Harvey O. Banks Pumping Plant.
- e. "Sites Project" means the Sites Reservoir Project as defined in the Sites Authority's Board Resolution 2023-02.
- f. "Sites Water" means water which has been stored in Sites Reservoir.
- g. "Standard Operating Procedures" means the operating procedures outlined in the attachment to this Agreement.

## 2. SITES PROJECT WATER RIGHT AND PRIOR RIGHTS

- a. Sites Project – The Sites Authority has applied for partial assignment of State Filed Application No. A025517 and, assuming such a right is assigned to the Sites Authority, the right will have a priority date of September 30, 1977. Diversions under the water right issued to the Sites Authority will be subject to prior rights held by CCWD in effect on the date a permit is issued to the Sites Authority and as such existing water rights may be modified, including Application 5941 (Permit 3167, License 10514), Application 20245 (Permit 20749), and Application 27893 (Permit 19856).

The Sites Project has applied for a permit for the diversion and storage of Sites Water as described in the Sites water right application No. A025517X01 filed May 11, 2022. Should the Sites Authority seek to add to or modify the water source(s) to be stored in Sites Reservoir, the Parties will meet and confer and mutually agree on necessary amendments to this agreement.

- b. Prior Rights – Except as provided in subparagraph 2.a above, nothing in this Agreement changes the water rights held by the Parties or alters the priority of those rights.

## 3. SITES PROJECT DIVERSIONS TO STORAGE

- a. The Sites Authority will divert when the Delta is in Excess Conditions as defined under COA and other Sites Project diversion criteria are met.



- b. The Parties agree to closely coordinate their respective operations. Close coordination will take into consideration, among other things: projections of hydrologic and Delta conditions, Delta water quality, export constraints, current and projected CCWD operations, deliveries reliant on Excess Conditions, and determination of Excess Conditions or Excess Conditions with Export Restriction.
- c. To achieve close coordination, the Parties will implement the attached Standard Operating Procedures. The Parties shall maintain and update the Standard Operating Procedures, as needed, and perform the obligations under this Agreement in accordance with the then current version of the Standard Operating Procedures.
- d. If needed, and as agreed upon by the Parties in the Standard Operating Procedures, the Sites Authority shall implement measures to address the Sites Project's impacts to CCWD operations, if any have occurred. These measures may include, but are not limited to, changes in the Sites Project's operations to avoid or minimize impacts to CCWD's operations, or compensation (funding or water). If compensation is to occur, then the Parties shall jointly prepare a written assessment of the prior year's operation to review the Sites Project's and CCWD's operations to evaluate how the Sites Project affected CCWD's operations. The assessment method will be agreed upon by the Parties consistent with the Standard Operating Procedures. The Parties agree that this assessment will evaluate the effects of operations on an annualized or seasonal basis, i.e., effects will be evaluated based on a comprehensive assessment of operations and not as of any particular date or month. The result will be to determine the net effect of operations throughout the year or season.

#### 4. MOVEMENT OF SITES WATER THROUGH CCWD FACILITIES

The Sites Project water right application includes CCWD's facilities as possible points of redirection of Sites Project water. The Sites Authority recognizes that the use of CCWD's facilities for the redirection of Sites Project water would require an agreement with CCWD (and possibly with Reclamation for any facility owned by Reclamation). If CCWD's facilities were to be used for the redirection of Sites Water in the future, such an agreement would be developed and executed prior to the redirection of Sites Water.

#### 5. COLLABORATIVE APPROACH

- a. The Parties shall maintain a collaborative approach, act in good faith and not unreasonably withhold information or consent in implementation of the provisions in this Agreement.

- b. The Parties agree to share records, accounting and reporting as reasonably necessary to implement the provisions of this Agreement.

#### 6. WATER RIGHT TERM AND DISMISSAL OF PROTEST

- a. The Parties shall jointly request that the State Water Board add the following terms to the Sites Project water right:
  - i. All Sites Project diversions shall comply with the provisions of any operations agreement among the Sites Reservoir Joint Powers Authority and Contra Costa Water District, as may be amended from time to time.
  - ii. Diversions of water under Contra Costa Water District's appropriative water right issued pursuant to Permit 19856 (Application 27893) shall have priority over A025517X01.
- b. CCWD agrees that this Agreement addresses its concerns expressed in its comments during the CEQA process and its protest on the Sites Project water right application. As such, and contingent upon the State Water Board including the terms above, with substantially similar intent, in the Sites Project water right permit, CCWD agrees to dismiss its protest. CCWD also agrees to not file litigation to challenge the Sites Project's CEQA compliance.
- c. With the exception of Paragraph 6.b., nothing in this Agreement waives any right of either Party to exercise its rights afforded to it under law.

#### 7. EVALUATION OF AGREEMENT AND CHANGES

- a. The Parties shall evaluate the effectiveness of this Agreement at least every 5 years and assess whether any amendments to this Agreement or the Standard Operating Procedures need to be made. Amendments to this Agreement or the Standard Operating Procedures may be made by written agreement by both Parties.
- b. The Parties recognize that the Sites Project will not be fully operational until after 2030. Therefore, the Parties anticipate more closely coordinating as Sites Project operations become imminent. Notwithstanding any other coordination and assessment required by this Agreement, the Parties will meet approximately one year prior to anticipated Sites Project operations to consider amendments to the Standard Operating Procedures attached to this Agreement.



## 8. DURATION OF AGREEMENT

- a. Effective Date – This Agreement shall commence on the date the last party executes this Agreement and shall continue thereafter, subject to potential amendments pursuant to Section 7, unless terminated pursuant to this Section.

The obligations specified in Sections 3 through 7 shall be contingent upon the State Water Board issuing a water right permit on Application No. A025517X01.

- b. Termination – Either Party shall have the right to terminate this Agreement in the event that the State Water Board does not issue a water right permit on Application No. A025517X01.

To terminate, either Party must give written notice (Termination Notice) to the other Party that it wishes to terminate this Agreement, with reasonable particularity as to the need for termination. The Parties shall then negotiate in good faith to address the issues raised in the Termination Notice for a period of at least ninety (90) days after the date of the Termination Notice. If the Parties fail to reach an agreement on the resolution of the issues raised in the Termination Notice within such 90-day period, either Party may terminate this Agreement upon thirty (30) days prior written notice to the other Party.

## 9. FORCE MAJEURE EVENT

- a. For purposes of this Agreement, a Force Majeure Event means any act occasioned by a cause beyond the reasonable control of the Parties including, but not limited to, floods, earthquakes, hurricanes or other natural catastrophes, actions by other government agencies, governmental legislation, judicial or administrative orders by other government agencies, casualties, war, insurrection, strikes, civil unrest, terrorism and any other causes that threaten public health or safety generally. Upon the occurrence of a Force Majeure Event, the affected Party shall give prompt written notice thereof to the other Party, describing the anticipated effect of the Force Majeure Event on operation of its facilities. The Parties shall meet and confer in good faith to discuss potential responses to the Force Majeure Event. Upon the occurrence of a Force Majeure Event, either Party may elect to terminate the Agreement pursuant to the procedures in Paragraph 8.b.

## 10. DISPUTE RESOLUTION

- a. Informal Dispute Resolution – In the event of dispute regarding interpretation or implementation of this Agreement, the general manager of CCWD, executive director of the Sites Authority, or their authorized representatives, shall endeavor to resolve the dispute by meeting within 30 days after the request of a Party. If the dispute remains unresolved, the Parties will endeavor to resolve the dispute through mediation, as specified in Paragraph 10.b.

No other means of dispute resolution, including mediation or litigation, shall be available to the Parties unless they have exhausted the process provided for in this Paragraph 10.a.

- b. Mediation – If a dispute cannot be resolved through informal dispute resolution as described in Paragraph 10.a, the Parties shall endeavor to settle the dispute using non-binding mediation under the rules of the Judicial Arbitration and Mediation Service (JAMS), the American Arbitration Association (AAA), or any other neutral organization agreed upon by the Parties before having recourse in a court of law. Mediation shall be commenced by sending a notice of demand for mediation to the other Party.

A single mediator that is acceptable to the Parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Agreement, if possible, and chosen from lists furnished by JAMS, AAA, or any other agreed upon mediator.

The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All mediation costs, including required travel and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be equally shared by the Parties to the dispute.

Notwithstanding any JAMS or AAA rules to the contrary, mediation will be conducted in an informal manner. Discovery shall not be allowed. The discussions, statements, writings and admissions and any offers to compromise during the proceedings will be confidential to the proceedings (Evidence Code §§ 1115 – 1128; 1152) and will not be used for any other purpose unless otherwise agreed by the Parties in writing. The Parties may agree to exchange any information they deem necessary.

The Parties shall have representatives attend the mediation who are authorized to settle the dispute, though a recommendation of settlement may be subject to the approval of each agency's board. Each Party may have attorneys, witnesses or experts present.



Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the Parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.

- c. If the Parties fail to resolve their dispute through mediation, including execution of a final written agreement, either Party may, at its option, pursue any available legal remedy including, but not limited to, injunctive and other equitable relief.
- d. Nothing in this Paragraph 10 shall relieve the Parties from performing their obligations under this Agreement. The Parties shall be required to comply with this Agreement, including the performance of all disputed activity and disputed payments, pending the resolution of any dispute under this Agreement.

#### 11. SECTION HEADINGS

The section headings of this Agreement are for the convenience of the Parties and shall not be considered to limit, expand, or define the contents of the respective sections.

#### 12. OPINION AND DETERMINATION

Where the terms of this Agreement provide for actions to be based upon the opinion, judgment, approval, review, or determination of any Party, such terms will be reasonably construed.

#### 13. FURTHER DOCUMENTATION

The Parties agree to execute any further documents reasonably necessary to effectuate the terms of this Agreement, as long as the terms and provisions of the other documents are fully consistent with the terms of this Agreement.

#### 14. ENTIRE AGREEMENT

This Agreement and the attachment to it contain the entire understanding of the Parties relating to this subject matter and shall supersede any prior written or oral agreements or communications between the Parties pertaining to that subject matter.

15. MODIFICATION OF AGREEMENT

No amendment to the terms and conditions of this Agreement shall be valid unless made in writing and signed by all the Parties to this Agreement.

16. SIGNATURE CLAUSE

The signatories represent that they have been appropriately authorized to execute this Agreement on behalf of the Party for whom they sign.


17. EXECUTION

The Parties agree that this Agreement can be executed in counter parts and by electronic signature, which shall be considered an original signature for all purposes and shall have the same force and effect as an original signature. The Agreement shall take effect as soon as all Parties have signed.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement.

Sites Reservoir Joint Powers Authority

Contra Costa Water District

  
\_\_\_\_\_  
Jerry Brown  
Executive Director  
12/18/23  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Rachel Murphy  
General Manager  
12/19/2023  
\_\_\_\_\_  
Date

Approved as to form:

By:   
\_\_\_\_\_  
Contra Costa Water District Legal Counsel

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AGREEMENT BETWEEN  
THE SITES RESERVOIR JOINT POWERS AUTHORITY AND  
CONTRA COSTA WATER DISTRICT  
TO COORDINATE IN THE OPERATIONS OF THE SITES RESERVOIR  
PROJECT

STANDARD OPERATING PROCEDURES

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The Parties agree to follow the following Standard Operating Procedures as generally represented in the flow chart provided in Figure 1.1 in Attachment 1 and described herein.

1. Qualitative Forecast Coordination – The Sites Authority and CCWD staff will meet regularly to share information about forecasted conditions and coordinate regarding foreseeable Sites Project operations. Coordination may also include discussions and cooperative work to assess and improve relevant modeling tools and processes. For the Quantitative Analysis described below, the Parties shall use this early coordination to agree upon the tool or tools to be used prior to the Sites Project diversion season. As soon as is practical, the Sites Authority shall communicate with CCWD regarding potential Sites Project diversion operations.
2. Quantitative Forecast Notification – At least seven (7) days before the Sites Authority plans to divert for the Sites Project, or earlier if possible, the Sites Authority shall inform CCWD of dates and rates of intended Sites Project diversions, as well as if forecasted “Quick Check-in Conditions and Process” or “Quantitative Analysis Conditions and Process” exist.
3. Quick Check-in Conditions and Process
  - a. The Parties agree to proceed with the Quick Check-in when the following conditions are projected to exist at the time of Sites Project diversions:
    - i. Forecasted Wilkins Slough flow with Sites Project diversions is greater than 10,700 cubic feet per second (cfs), and
    - ii. Current Jersey Point daily average electrical conductivity (EC) is less than 400 microsiemens per centimeter (us/cm).
  - b. Under the Quick Check-in Conditions, CCWD shall respond to the Sites Authority’s notification within two (2) days that either:
    - i. There are no anticipated adjustments to CCWD operations due to planned Sites Project diversions and no need for a Quantitative Analysis; or



- ii. CCWD anticipates the need to adjust its operations or the need to adjust its operations is uncertain and Quantitative Analysis is needed.
- c. If CCWD does not respond within two (2) days, then the Sites Authority will assume that there is no need for Quantitative Analysis and CCWD may not object to the Sites Authority's diversions.

#### 4. Quantitative Analysis Conditions and Process

- a. If circumstances do not qualify for Quick Check-in Conditions, or if CCWD responds timely to a Quick Check-in notification that Quantitative Analysis is needed, then the Parties shall proceed with a Quantitative Analysis.
- b. In the event of a Quantitative Analysis, the Sites Authority shall request CCWD's forecasted operational plans for a specific period of time, not to exceed 14 days. CCWD shall provide this information within one (1) business day of receiving the request from the Sites Authority.
- c. The Sites Authority and CCWD will each prepare a Quantitative Analysis to determine if Sites Project operations would result in changes to water quality as described in Section 4.c.iii below.
  - i. This analysis will be conducted with a modeling tool that is readily available to both the Sites Authority and CCWD and that can readily simulate Delta salinity conditions. Currently, the Parties agree to use DSM2. However, the Parties may agree to use other tool(s) in the future. For each Quantitative Analysis, both Parties will use the same tool or tools as agreed upon before the analysis is performed.
  - ii. The Sites Authority and CCWD will both conduct an analysis using the agreed-upon modeling tool(s) to determine whether the expected water quality at CCWD intakes (as determined by water quality at the nearby water quality station shown in Attachment 1, Figure 1.2) with and without the Sites Project's diversions would change such that, taking into consideration CCWD's unique water quality-based operational drivers such as those reflected in the management of LV for water quality and emergency supply (see Attachment 2): (1) CCWD would have a reduced usability of its Mallard Slough intake; (2) CCWD would have reduced LV filling; (3) CCWD would have increased LV releases; or (4) CCWD would have to shift Delta diversions to a higher-cost source. To assess these changes, the Parties agree to use the Quantitative Analysis in Section 4.c.iii and CCWD's forecasted operational plans in Section 4.b.
  - iii. If the analysis shows that the Sites Project is projected (a) to result in a change in salinity at the CCWD diversion facilities that CCWD



plans to use (based on Section 4.b.) of not more than 5 mg/L Cl; and (b) the Sites Project would not result in increases in salinity at the CCWD diversion facilities that CCWD plans to use based on Section 4.b. that would result in salinity above CCWD's then current salinity delivery target or CCWD's then current LV fill salinity target (at the existing points of diversion CCWD is authorized to fill LV as of the date of this agreement), then no further coordination is required.

1. The Sites Authority shall provide the results of its analysis, including all input files and the Sites Project planned operations, to CCWD at least five (5) days before the Sites Authority plans to begin diversions for the Sites Project if Quick Check-in Conditions do not exist, or at least three (3) days before the Sites Authority plans to begin diversions if CCWD responds timely to a Quick Check-in notification that Quantitative Analysis is needed.
2. CCWD shall respond to the Sites Authority's provision of the Quantitative Analysis within two (2) days if Quick Check-in Conditions did not exist, or within one (1) day if CCWD responds timely to a Quick Check-in notification that Quantitative Analysis is needed. CCWD may respond that either:
  - a. CCWD agrees with the Sites Authority's findings; or
  - b. CCWD does not agree with the Sites Authority's findings and a meet and confer is necessary. In this case, CCWD shall share its analysis and findings with the Sites Authority.

If CCWD does not timely respond, then the Sites Authority may assume that CCWD agrees with the Sites Authority's findings and CCWD may not object to the Sites Authority's diversions.

- iv. If the analysis shows that the Sites Project would result in a change in salinity at CCWD's diversion facilities that are planned to be used based on CCWD's forecasted operational plans in Section 4.b greater than those identified in Section 4.c.iii above, then the Sites Authority shall provide the results of the analysis, including all input files, to CCWD and meet and confer with CCWD to determine if such changes in salinity would result in adjustments to CCWD's operations (CCWD Operational Adjustments) and if so, the actions that the Sites Authority would take to avoid and minimize these CCWD Operational Adjustments. CCWD Operational Adjustments are non-routine actions taken by CCWD in response to effects of

Sites Project operations and are adjustments that would not otherwise be employed by CCWD in the reasonable course of routine operations.

1. The Sites Authority and CCWD shall meet and confer as soon as possible, but no later than two (2) days after transmittal of the analysis and results.
2. If it is determined that Sites Project operations would require CCWD Operational Adjustments, then the Sites Authority shall implement Operational Changes (as defined in Section 4.c.iv.3.a.) to avoid such adjustments or implement compensatory measures. To the extent that Sites Authority does not or cannot implement Operational Changes to avoid effects on CCWD's operations, the Parties agree that Sites Authority will undertake compensatory measures.

3. Operational Changes

- a. Operational Changes are actions by the Sites Authority that could reduce changes in salinity at the CCWD's diversion facilities, as determined using the modeling tool, to remain within the parameters identified in the criteria identified in Section 4.c.iii above and may include, but are not limited to:
  - i. Delaying start of Sites Project diversions
  - ii. Reducing Sites Project diversions
  - iii. Any other appropriate actions determined by Sites Authority, as determined using the modeling tool(s) when the results indicate that such actions would alleviate or avoid the effects on CCWD's operations.
- b. Implementation of Operational Changes to the Sites Project that are shown by the analysis to satisfy the criteria identified in Section 4.c.iii will be the only action required by Sites Authority for the analyzed event. If the action does not have the expected effect, Sites Authority is not obligated to take additional action and these results will be taken into account in future analysis.

4. Compensatory Measures

- a. Compensatory measures are actions that would compensate CCWD for its Operational Adjustments resulting from Sites Project operations. In considering compensatory measures, the net effect to CCWD operations, including any improvements to Delta



water quality from Sites Project releases<sup>1</sup>, will be evaluated and will consider, but is not limited to, the following:

- i. Comparison of actual Delta water quality to forecasted water quality;
- ii. Comparison of actual CCWD operations to modeled operations without Sites diversions;
- iii. CCWD use of an alternative diversion facility due to changes in water quality;
- iv. Decreased storage in LV due to reduced diversions to storage and/or increased releases from LV; and
- v. End of season storage in LV, including whether LV filled or had the opportunity to fill.

The evaluation above will be used to quantify the net effect to CCWD operations and identify the water and/or monetary compensation to be paid by Sites.

- b. If compensatory measures need to be implemented, then the Sites Authority and CCWD shall coordinate on the most appropriate measure to implement, compensation amounts, and timing.
  - d. The Parties recognize that coordination on input parameters for the analysis tool is beneficial to an expedited and common understanding of the results, and the Sites Authority shall work to coordinate with CCWD on such parameters to the extent possible while meeting the time commitments required above.
  - e. The Sites Authority will do its best to provide notification such that CCWD's time to respond falls on business days.
  - f. CCWD will act in good faith and not unnecessarily request Quantitative Analysis be conducted. The Sites Authority will act in good faith to complete the necessary Quantitative Analysis in a transparent and timely manner.
5. The Parties recognize that these Standard Operating Procedures and the criteria used herein are based on CCWD's current operational parameters as described in Attachment 2, along with current physical, regulatory and climatic conditions. The Parties acknowledge that these Standard Operating Procedures may change in the future based on a number of factors, including, but not limited to, changes in CCWD operational targets, changes in the Sites Project operational parameters or conditions, climate change, sea level rise, and changed Delta

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<sup>1</sup> The parties acknowledge that the calculation of carriage water is based on a calculated value and the Parties will work together to in the future to determine if carriage water has resulted in an actual Delta water quality improvement or maintenance of Delta water quality.

regulations. The Parties agree that changed conditions warrant evaluation of these Standard Operating Procedures consistent with Section 7 of the Operations Agreement and will act consistent with Section 5 of the Operations Agreement to negotiate changes to these Standard Operating Procedures.

# ATTACHMENT 1

FIGURE 1.1. STANDARD OPERATING PROCEDURES FLOW CHART

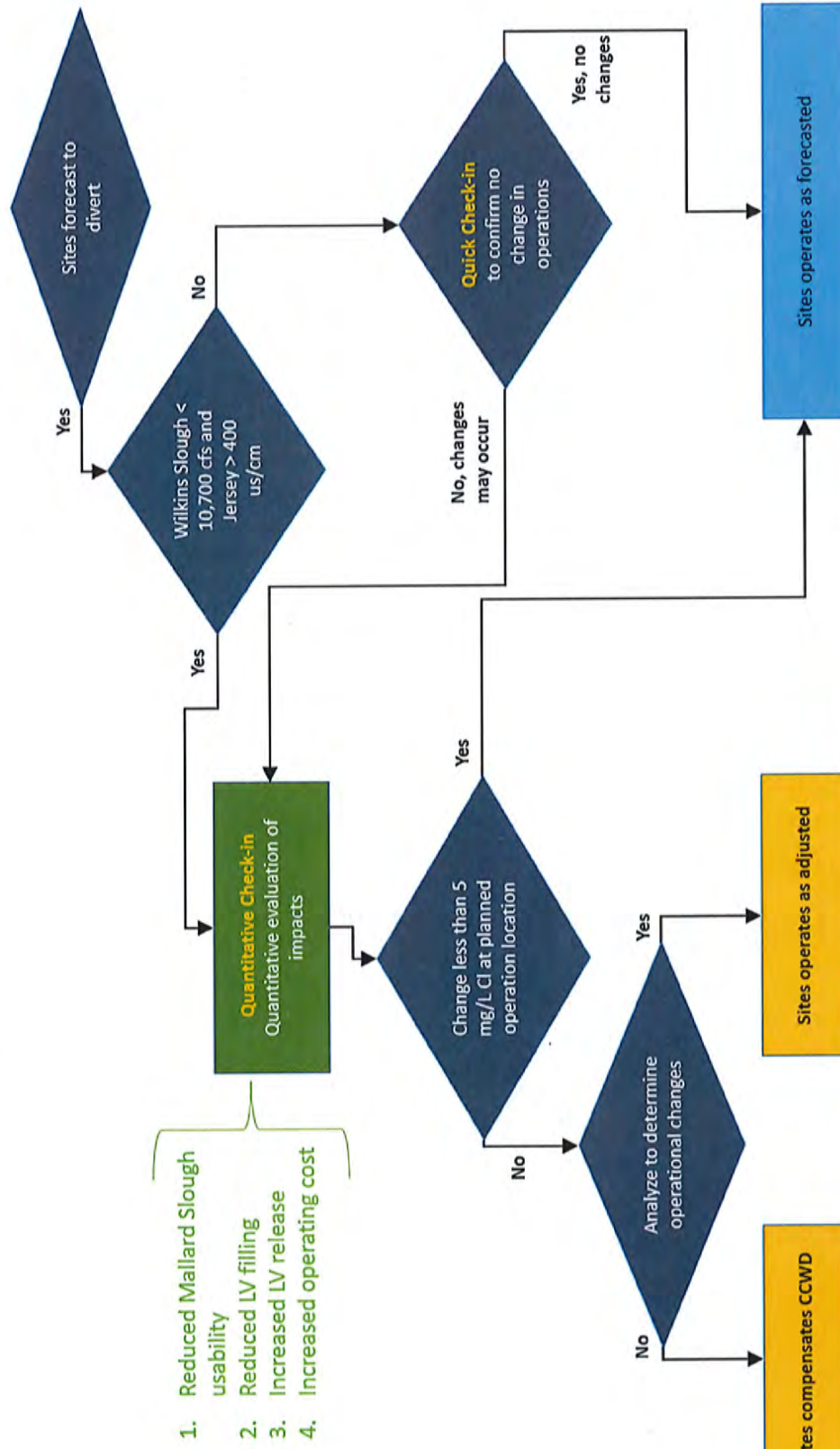




FIGURE 1.2. CCWD'S DIVERSION LOCATIONS AND NEAREST WATER QUALITY MONITORING STATIONS



<https://cdec.water.ca.gov/webgis/?appid=cdecstation>

## ATTACHMENT 2

### BACKGROUND INFORMATION ON CCWD CURRENT OPERATIONS

Water deliveries to Contra Costa Water District's (CCWD's) service area may be diverted directly at CCWD's Delta intakes ("direct deliveries") or released from previously stored water in Los Vaqueros Reservoir (LV). CCWD also can receive water delivered from the Freeport Regional Water Project (Freeport) intake through an intertie with East Bay Municipal Utility District (EBMUD). CCWD optimizes the use of different Delta intakes to meet demands within CCWD's service area, fill LV for the purposes of drought and emergency water supply and water quality blending, and to fill LV at the lowest costs possible within all operational and regulatory constraints while meeting its water quality goals. CCWD determines its operations based on a variety of factors, including permit terms and regulatory conditions, as well as water quality, water and power costs, maintenance and construction scheduling, and hydrologic considerations. Figure 2.1 provides an overview map of CCWD's facilities.

1. Delivery: CCWD diverts from Mallard Slough, Rock Slough, Old River, and Middle River Intakes for direct delivery to CCWD customers when intake salinity is approximately less than 80 milligrams per liter (mg/L) chloride (Cl); i.e., the salinity delivery target. This salinity delivery target has been flexed to approximately 100 mg/L Cl during drought emergencies and may be flexed in the future for other types of emergencies. If salinity at all CCWD intakes is higher than the salinity delivery target, CCWD blends Delta diversions with releases from LV.
  - a. Operating costs of each intake are different due to differences in the source of water (CCWD's LV or Mallard Slough water rights or CCWD's Central Valley Project [CVP] contract supply) and energy costs. Operating costs at each intake, from low to high, are (1) Mallard Slough Intake, (2) Rock Slough Intake, (3) Old River Intake, (4) Middle River Intake.
  - b. Filling LV incurs additional costs to pump the water up to the reservoir (as discussed below). For this reason, water supply (releases) from LV is the most expensive option for delivery, with the exception of Freeport deliveries from EBMUD.
  - c. Reduction in length of time that the salinity at a CCWD intake meets the salinity delivery target may cause CCWD to shift to a more expensive intake or start/increase blending releases from LV to meet the salinity delivery target.



2. Filling LV: CCWD currently uses Old River and Middle River Intakes to fill LV when salinity at the intakes is below the salinity fill target (50 mg/L Cl)<sup>2</sup>.
- a. For LV filling, energy costs from low to high are (1) Old River Intake, (2) Middle River Intake, and (3) Freeport deliveries. These rankings may change over time.
  - b. Under current conditions, summer power costs are the highest, followed by fall/winter and then spring. Increased salinity in the winter could shift the window that CCWD could otherwise fill LV from winter-spring to spring-summer, increasing the associated cost.
  - c. Power demand charges are incurred based on calendar month. Reduction in the length of time that salinity is low enough to fill LV may result in a greater cost per acre-foot for the limited time that CCWD is able to fill in a single month and/or cause an additional partial month of filling to be needed later in the year. Conversely, CCWD considers power demand charges when determining start and stop of LV filling.
  - d. CCWD CVP water costs are higher than CCWD filling with CCWD's LV water right, so reduction in the ability to divert under the LV water right may cause an increased economic cost.
  - e. Filling with more saline water, even when the salinity is less than the salinity fill target (e.g., filling with 45 mg/L Cl instead of 35 mg/L Cl), may reduce the blending power of LV, which may require additional releases from LV when it is needed as a blending supply.
  - f. Reduction in length of time that salinity at a lower cost intake meets the salinity fill target may cause CCWD to use a more expensive intake to fill LV.
  - g. Increasing salinity above the salinity fill target may prevent CCWD from filling LV.
  - h. Reduction in length of time that salinity at all CCWD intakes meets the salinity fill target may reduce CCWD storage in LV, thus possibly affecting CCWD's drought and emergency supply.

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<sup>2</sup> After construction of the Neroly High-Lift Pumping Station, which is a facility approved by CCWD Board of Directors as part of LV Expansion, the Rock Slough Intake will also be able to be used to fill LV. The ability to fill LV from Neroly requires alteration of CCWD's and CVP existing water rights which have not yet been applied for or granted and therefore is not considered to be in effect at the time of this Agreement.



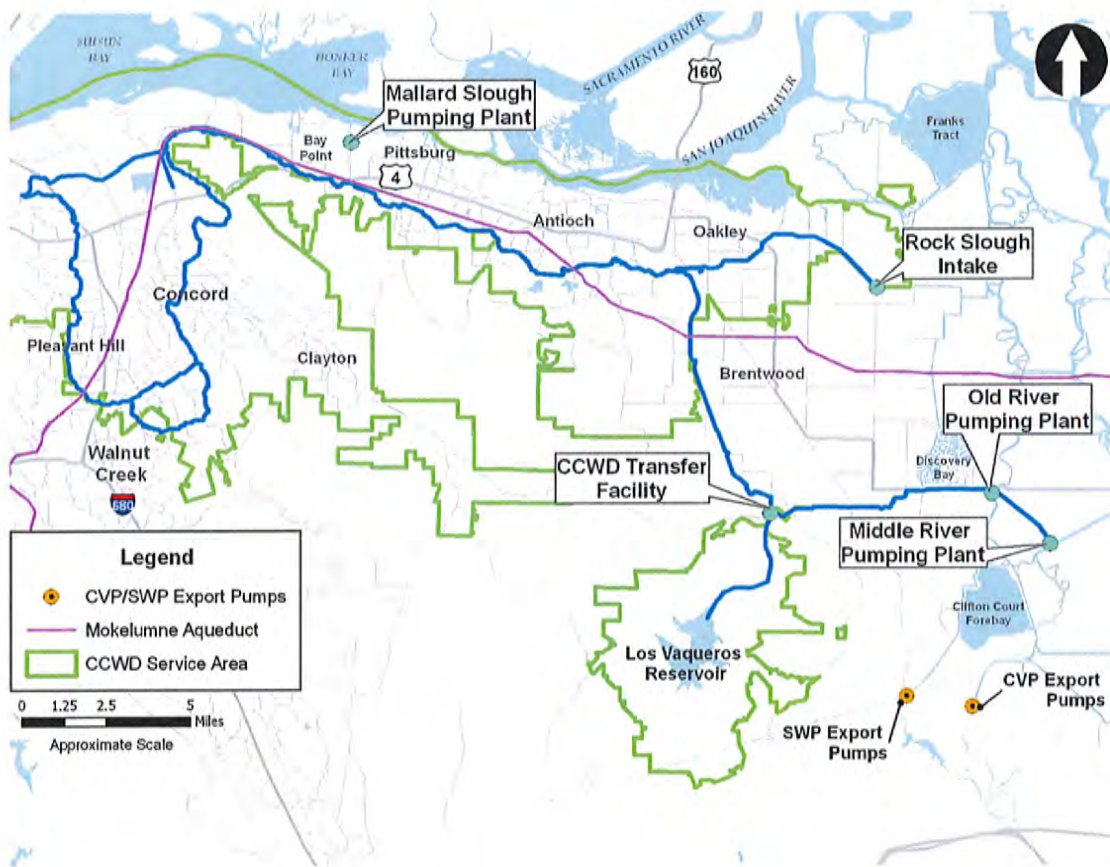


Figure 2.1. Map of CCWD Facilities

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AGREEMENT BETWEEN  
THE SITES RESERVOIR JOINT POWERS AUTHORITY AND  
MAXWELL IRRIGATION DISTRICT  
TO AVOID IMPACTS OF  
SITES RESERVOIR PROJECT TO MAXWELL IRRIGATION DISTRICT  
WATER RIGHTS

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THIS AGREEMENT is made this 9th day of April, 2024, between the Sites Project Authority, herein referred to as the "Sites Authority" and Maxwell Irrigation District, herein referred to as "MID." The Sites Authority and MID may be referred to individually as "Party" or collectively as "Parties."

**RECITALS**

- A. The Sites Authority was formed on August 26, 2010, when seven regional entities executed the Joint Exercise of Powers Agreement. The primary purpose of the Sites Authority is to pursue the development and construction of the Sites Reservoir Project (Sites Project), which has long been evaluated as an off-stream storage project to provide direct and real benefits to instream flows, the Sacramento-San Joaquin River Delta (Delta) ecosystem, and water supply throughout the State.
- B. To comply with the California Environmental Quality Act and its implementing Guidelines, the Sites Authority released a Final Environmental Impact Report (Final EIR) for the Sites Project on November 2, 2023. The Sites Authority certified the Final EIR and adopted the Project with Board Resolution 2023-02 at its November 17, 2023 meeting.
- C. The Sites Authority filed a water right application with the State Water Resources Control Board (State Water Board) to appropriate water for the Sites Project on May 10, 2022, and supplemented this application with materials on January 6, 2023. As part of its application, the Sites Authority has applied for partial assignment of State Filed Application No. A025517 and, assuming such a right is assigned to the Sites Authority, the right will have a priority date of September 30, 1977. The State Water Board issued notice of the application on June 2, 2023, and the noticing period closed on August 31, 2023. The Sites Authority proposes to divert water from Funks and Stone Corral Creeks to storage in Sites Reservoir by means of construction of two dams; Funks Creek is a tributary to Stone Corral Creek upstream of MID's point of diversion on Stone Corral Creek.

- D. MID supplies water for irrigation, recreational (duck club), recreational, rice straw decomposition, and fish and wildlife protection and/or enhancement purposes to approximately 6,800 acres in Colusa County. MID relies on water diverted through its facilities on various creeks, drains, and the Sacramento River under its appropriative water rights.
- E. MID holds nine water rights with various points of diversion ("MID Water Rights"). Five of the MID Water Rights have points of diversion and rediversion that could receive water from Stone Corral Creek. These are Application 11956 (License 4586), Application 11955 (License 4643), Application 11957 (License 4644), Application 11958 (License 4694), and Application 30445 (Permit 21004). MID's Water Rights are listed in detail in Attachment 1.
- F. The Sites Authority and MID entered into a Memorandum of Understanding Regarding MID Water Rights and Sites Reservoir (Sites-MID MOU) dated August 23, 2023 to provide a framework for binding commitments from the Sites Authority in not impacting MID's existing water rights on Stone Corral Creek. In the Sites-MID MOU the Parties agreed to enter into a binding agreement to ensure that the Sites Project will not impact MID's ability to exercise its water rights. This Agreement implements that provision of the Sites-MID MOU.
- G. The Parties desire to coordinate to ensure that MID can achieve its operational goals without impacts from the Sites Project on MID's Water Rights or operations, to develop standard operating procedures to assess potential impacts, and to avoid anticipated impacts and compensate for actual impacts.

## **AGREEMENT**

The Sites Authority and MID agree to the following:

### **1. INCORPORATION OF SITES-MID MOU**

- a. The terms of the Sites-MID MOU, including the Parties' obligations thereunder, are hereby incorporated into this Agreement.

### **2. SITES PROJECT WATER RIGHT AND PRIOR RIGHTS**

- a. Priority of Right – The Parties agree that diversions under the water right issued by the State Water Board to the Sites Authority will be subject to prior rights held by MID in effect on the date a permit is issued to the Sites Authority and as such MID existing water rights may be modified. The Sites Authority agrees to allow MID's Application 30445 (Permit 21004) to have priority over the Sites Authority's right to divert water and has reflected this priority in the Sites Authority's water right application.

- b. Prior Rights – Except as provided in subparagraph 2.a above, nothing in this Agreement changes the water rights held by the Parties or alters the priority of those rights.
- c. Commitment to Not Impact MID Water Rights – The Sites Authority agrees to not impact MID Water Rights and MID's ability to divert MID Water Rights water for its operations. The Standard Operating Procedures (Attachment 2) and the Funks and Stone Corral Creeks Operations Plan described in this Agreement are intended to ensure that no such impacts occur.

### 3. SITES PROJECT DIVERSIONS TO STORAGE

- a. The Sites Authority will divert to storage from Funks and Stone Corral Creeks only when all of the following conditions exist: (1) September 1 through June 14; (2) the Delta is in Excess Conditions<sup>1</sup> as defined under the "Agreement between the United States of America and the State of California for Coordinated Operations of the Central Valley Project and the State Water Project"; (3) Term 91<sup>2</sup> is not in effect; and (4) any other applicable Sites Project diversion criteria relative to Funks and Stone Corral Creeks are met<sup>3</sup>.

### 4. STANDARD OPERATING PROCEDURES

- a. The Parties agree to closely coordinate their respective operations through implementation of Standard Operating Procedures, which are attached hereto as Attachment 2. The Standard Operating Procedures shall take into consideration, among other things: flows in the creeks above Sites Reservoir; releases into Funks and Stone Corral Creeks from Sites Reservoir; flows in Stone Corral Creek at locations downstream of Sites Reservoir but upstream of MID's Point of Diversion #2 (POD #2) as shown in Attachment 1; and flows in the Colusa Basin Drain upstream of MID's POD #2. The Parties shall maintain and update the Standard Operating Procedures consistent with Section 7(a) and on an as-needed basis.
- b. The Sites Authority shall implement measures to address and/or mitigate any Sites Project's impacts to MID operations or MID Water Rights, if any

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<sup>1</sup> "Excess Conditions" means periods when releases from upstream reservoirs plus unregulated flow exceed the water supply needed to meet Sacramento Valley in-basin uses, Delta water quality outflow requirements, and Delta exports, as defined in the "Agreement between the United States of America and the State of California for Coordinated Operations of the Central Valley Project and the State Water Project" dated November 24, 1986, and updated December 12, 2018.

<sup>2</sup> Term 91 has been included in permits and licenses, granted after 1965, for diversion and use of water in the Delta watershed. Term 91 requires that those holding such permits and licenses cease diverting water when the State Water Resources Control Board gives notice that water is not available for use under those permits and licenses.

<sup>3</sup> As of the preparation of this Agreement, no other applicable Sites Project diversion criteria for Funks and Stone Corral Creeks exist.

are projected to occur or have occurred; any such measures will be reflected in the Standard Operating Procedures in language agreed upon by both Parties. These measures may include, but are not limited to, changes in the Sites Project's operations to avoid, minimize or mitigate for impacts to MID's operations or MID Water Rights. If agreement on revisions to the Standard Operating Procedures is not reached, then the Parties shall proceed through the Dispute Resolution process as specified in Paragraph 10.

#### 5. FUNKS AND STONE CORRAL CREEKS OPERATIONS PLAN

- a. Prior to diverting water to storage in Sites Reservoir from Funks and Stone Corral Creeks, the Sites Authority will develop a Funks and Stone Corral Creeks Operations Plan ("Plan") in cooperation with MID and other interests. The Plan will ensure a technically feasible operations framework for Funks and Stone Corral Creeks to avoid impacts to MID's operations and MID Water Rights. The Plan will also consider other legal requirements, such as Fish and Game Code Section 5937. The Sites Authority will work cooperatively with MID and other downstream water right holders to develop the Plan as well as a governance mechanism for coordination among those parties. The Plan shall, among other things, identify the measuring and monitoring locations that will be essential to understanding the Project's changes in creek flows, including a methodology to determine daily creek flows into Sites Reservoir, daily releases from Sites Reservoir into Funks and Stone Corral Creeks along with a measurement station to determine daily creek flows upstream of MID's Point of Diversion on Stone Corral Creek. The Sites Authority will lead and fund the required technical work to develop the Plan, including data gathering and analysis. In the event of any conflict between the Plan and this Agreement, this Agreement is the controlling document.

#### 6. COLLABORATIVE APPROACH

- a. The Parties shall maintain a collaborative approach and act in good faith with respect to implementation of the provisions in this Agreement.
- b. The Parties agree to share records, accounting and reporting as reasonably necessary to implement the provisions of this Agreement.

#### 7. EVALUATION OF AGREEMENT AND AMENDMENTS

- a. The Parties shall evaluate the effectiveness of this Agreement at least every 5 years and assess whether any amendments to this Agreement or the Standard Operating Procedures need to be made. Amendments to this Agreement or the Standard Operating Procedures must be made by written agreement by both Parties.

- b. The Parties recognize that the Sites Project will not be fully operational until after 2030. Therefore, the Parties anticipate more closely coordinating as Sites Project operations become imminent. Notwithstanding any other coordination and assessment required by this Agreement, the Parties will meet approximately one year prior to anticipated Sites Project operations (i.e., diverting water from Funks and Stone Corral Creeks to storage in Sites Reservoir) to consider amendments to the Standard Operating Procedures.

#### 8. DURATION OF AGREEMENT

- a. Effective Date – This Agreement shall commence on the date the last party executes this Agreement and shall continue thereafter, subject to potential amendments pursuant to Section 8, unless terminated pursuant to this Section.

The obligations in Sections 2, 3, 4, and 5 are conditioned upon the State Water Board issuing a water right permit on Application No. A025517X01.

- b. Termination – To terminate, either Party must give written notice (Termination Notice) to the other Party that it wishes to terminate this Agreement, with reasonable particularity as to the need for termination. The Parties shall then negotiate in good faith to address the issues raised in the Termination Notice for a period of at least ninety (90) days after the date of the Termination Notice. If the Parties fail to reach an agreement on the resolution of the issues raised in the Termination Notice within such 90-day period, either Party may terminate this Agreement upon thirty (30) days prior written notice to the other Party.

#### 9. FORCE MAJEURE EVENT

- a. For purposes of this Agreement, a Force Majeure Event means any act occasioned by a cause beyond the reasonable control of the Parties including, but not limited to, floods, earthquakes, hurricanes or other natural catastrophes, actions by other government agencies, governmental legislation, judicial or administrative orders by other government agencies, casualties, war, insurrection, strikes, civil unrest, terrorism and any other causes that threaten public health or safety generally. Upon the occurrence of a Force Majeure Event, the affected Party shall give prompt written notice thereof to the other Party, describing the anticipated effect of the Force Majeure Event on operation of its facilities. The Parties shall meet and confer in good faith to discuss potential responses to the Force Majeure Event. Upon the occurrence of a Force Majeure Event, either Party may elect to terminate the Agreement pursuant to the procedures in Paragraph 8.b.

## 10. DISPUTE RESOLUTION

- a. Informal Dispute Resolution – In the event of dispute regarding interpretation or implementation of this Agreement, the general manager of MID, executive director of the Sites Authority, or their authorized representatives, shall endeavor to resolve the dispute by meeting within 30 days after the request of a Party. If the dispute remains unresolved, the Parties will endeavor to resolve the dispute through mediation, as specified in Paragraph 10.b.

No other means of dispute resolution, including mediation or litigation, shall be available to the Parties unless they have exhausted the process provided for in this Paragraph 10.a.

- b. Mediation – If a dispute cannot be resolved through informal dispute resolution as described in Paragraph 10.a, the Parties shall endeavor to settle the dispute using non-binding mediation under the rules of the Judicial Arbitration and Mediation Service (JAMS), the American Arbitration Association (AAA), or any other neutral organization agreed upon by the Parties before having recourse in a court of law. Mediation shall be commenced by sending a notice of demand for mediation to the other Party.

A single mediator that is acceptable to the Parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Agreement, if possible.

The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All mediation costs, including required travel and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be equally shared by the Parties to the dispute.

Notwithstanding any JAMS or AAA rules to the contrary, mediation will be conducted in an informal manner. Discovery shall not be allowed. The discussions, statements, writings and admissions and any offers to compromise during the proceedings will be confidential to the proceedings (Evidence Code §§ 1115 – 1128; 1152) and will not be used for any other purpose unless otherwise agreed by the Parties in writing.

Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the Parties.

- c. If the Parties fail to resolve their dispute through mediation, including execution of a final written agreement, either Party may, at its option, pursue any available legal remedy including, but not limited to, injunctive



and other equitable relief.

- d. Nothing in this Paragraph 10 shall relieve the Parties from performing their obligations under this Agreement. The Parties shall be required to comply with this Agreement, including the performance of all disputed activity and disputed payments, pending the resolution of any dispute under this Agreement.

11. SECTION HEADINGS

The section headings of this Agreement are for the convenience of the Parties and shall not be considered to limit, expand, or define the contents of the respective sections.

12. OPINION AND DETERMINATION

Where the terms of this Agreement provide for actions to be based upon the opinion, judgment, approval, review, or determination of any Party, such terms will be reasonably construed.

13. FURTHER DOCUMENTATION

The Parties agree to execute any further documents reasonably necessary to effectuate the terms of this Agreement, as long as the terms and provisions of the other documents are fully consistent with the terms of this Agreement.

14. ENTIRE AGREEMENT

This Agreement and the attachment to it contain the entire understanding of the Parties relating to this subject matter and shall supersede any prior written or oral agreements or communications between the Parties pertaining to that subject matter.

15. MODIFICATION OF AGREEMENT

No amendment to the terms and conditions of this Agreement shall be valid unless made in writing and signed by all the Parties to this Agreement.

16. SIGNATURE CLAUSE

The signatories represent that they have been appropriately authorized to execute this Agreement on behalf of the Party for whom they sign.

17. EXECUTION

The Parties agree that this Agreement can be executed in counter parts and by

electronic signature, which shall be considered an original signature for all purposes and shall have the same force and effect as an original signature. The Agreement shall take effect as soon as all Parties have signed.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement.

Sites Reservoir Joint Powers Authority

Maxwell Irrigation District



Jerry Brown  
Executive Director

7/31/24  
Date



Kurt Richter  
Board President

6/10/24  
Date

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ATTACHMENT 1

SUMMARY OF MAXWELL IRRIGATION DISTRICT'S  
WATER RIGHTS

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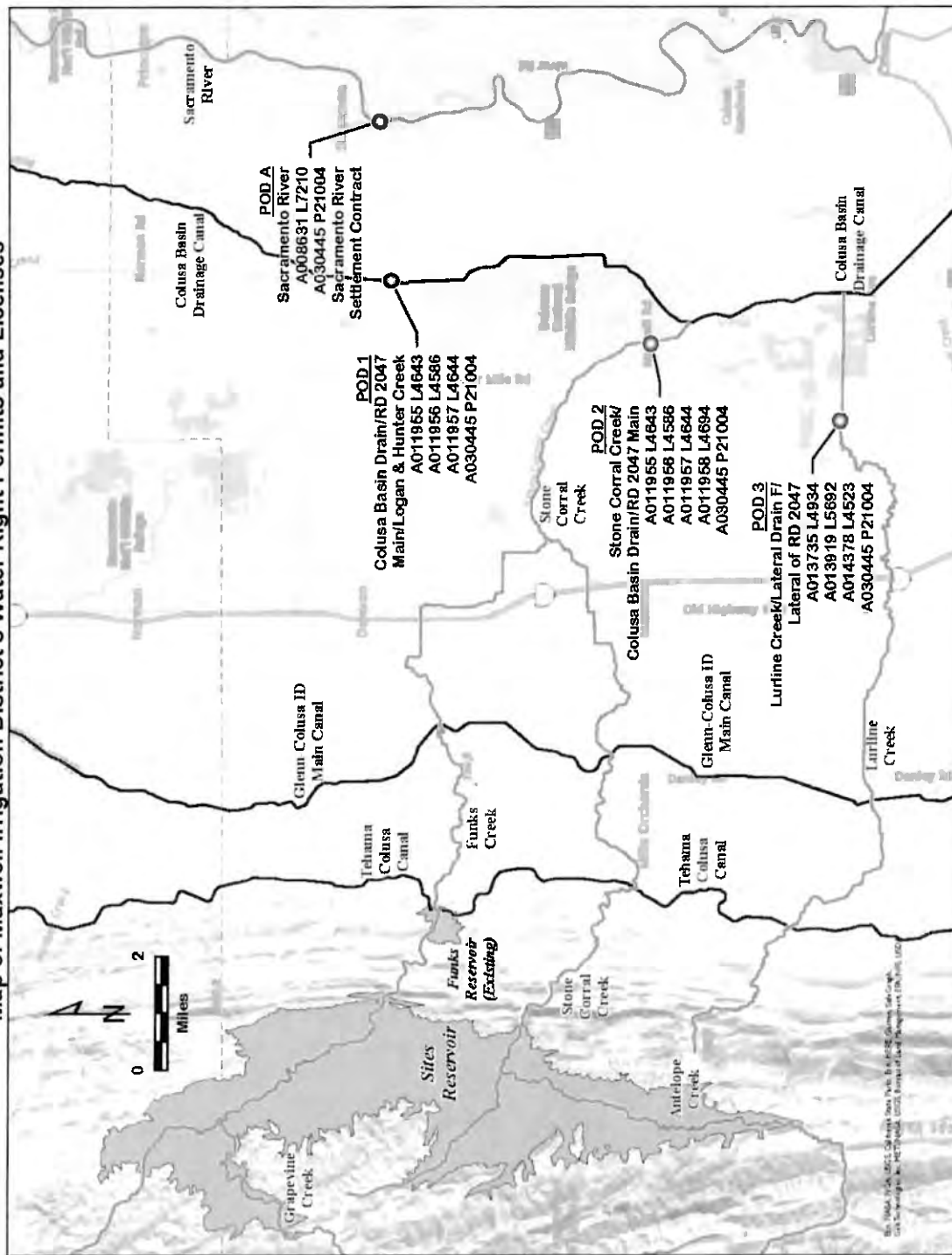
### Summary of Maxwell Irrigation District's Water Right Permits and Licenses

Ordered by priority date

Those shaded in blue include source(s) that may receive water from Stone Corral Creek

Application Number	Permit or License Number	Priority Date	Source(s)	Season	Amount (cfs)
8631	7210 (License)	April 8, 1936	Sacramento River	From about March 15 to about November 1	63
11956	4586 (License)	June 24, 1947	RD 2047 Main Drain	From about April 1 to about October 1	8.5
11955	4643 (License)	June 24, 1947	RD 2047 Main Drain Canal	From about April 15 to about October 1	14
11957	4644 (License)	June 24, 1947	Logan and Hunter Creek (POD #1) and RD 2047 Main Drain Canal (POD #2)	From about April 15 to about October 1	POD #1-15 POD #2-50.5
11958	4694 (License)	June 24, 1947	Stone Corral Creek Drain	From about April 15 to about October 1	13.5
13919	5692 (License)	August 25, 1950	Lurline Creek	From about May 1 to about December 1	11.6
13735	4734 (License)	May 15, 1950	Lateral drain of RD 2047	From about April 15 to about October 1	7
14378	4523 (License)	June 28, 1951	Lateral Drain F of RD 2047	From about April 15 to about September 30 for irrigation; From about March 1 to about November 30 for recreation	3
30445	21004 (Permit)	May 30, 1995	Sacramento River (POD A) Colusa Basin Drain (POD #1) Stone Corral Creek (POD #2) Lurline Creek (POD #3)	October 1 to March 31	POD #A-80 POD #1-75 POD #2-75 POD #3-31

Map of Maxwell Irrigation District's Water Right Permits and Licenses



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ATTACHMENT 2

STANDARD OPERATING PROCEDURES

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The Parties agree to follow the following Standard Operating Procedures as generally described herein.

1. **Forecast Coordination** – The Sites Authority and MID staff will meet periodically to share information about forecasted conditions and coordinate regarding foreseeable Sites Project operations. Coordination may also include discussions and cooperative work to assess and improve relevant measuring and monitoring tools and processes along with assess and improve data sharing and communications tools and processes. As soon as is practical, the Sites Authority shall communicate with MID regarding potential Sites Project diversion to storage from Funks and Stone Corral Creeks.
2. **Data Sharing** – The Sites Authority shall share information on a daily basis with MID on at least the following: flows in the creeks above Sites Reservoir for the prior day (which may be measured or estimated using a mass balance approach); actual daily releases into Funks and Stone Corral Creeks from Sites Reservoir for the prior day; expected daily releases into Funks and Stone Corral Creeks from Sites Reservoir for the current day; and flows in Stone Corral Creek at locations downstream of Sites Reservoir but upstream of MID's POD #2 for the prior day. The Parties shall develop a template to quickly and efficiently share this information, which may be shared via email or website.
3. **Forecast Notification** –
  - a. **Initial Notification.** At least seven (7) days before the Sites Authority plans to divert water to storage from Funks and/or Stone Corral Creeks within the Sites Project diversion season (September 1 through June 14), or earlier if possible, the Sites Authority shall inform MID of anticipated date of initial diversion.
  - b. **Weekly Notifications.** After the Initial Notification has occurred and for the remainder of each Sites Project diversion season (through June 14), the Sites Authority shall inform MID of its intended diversions to storage of water from Funks and/or Stone Corral Creeks and releases into Funks and/or Stone Corral Creeks weekly for the upcoming seven (7) days that occur two

(2) days following the notification (for example, if the notification occurs on a Monday, it would cover the upcoming seven days from Wednesday through the following Tuesday). The Parties shall develop a template to quickly and efficiently share this information, which may be shared via email or on a website. The Sites Authority shall, via email, inform MID of changes that may occur to the weekly plan as soon as possible.

- c. **MID Notification.** MID shall notify the Sites Authority as soon as possible if MID believes that the Sites Authority's operations may impact or has impacted MID's ability to exercise MID Water Rights or MID's operations. Such notification shall include a brief description of how the Sites Authority's operations may impact or has impacted MID and the anticipated timing of such impacts. Within two (2) days of MID's notification, the Sites Authority and MID shall meet and confer. The Parties shall work together to identify and agree upon whether an impact to MID's operations may occur or has occurred and if so, ways to avoid or minimize such impacts to MID's operations. If agreement is reached, then the Sites Authority shall implement measures to address the Sites Project's impacts to MID operations, and such measures may be incorporated into these Standard Operating Procedures as appropriate. If agreement is not reached, then the Parties shall proceed through the Dispute Resolution process as specified in Paragraph 10 of the Agreement.
- 4. **Re-regulation Notification.** The Parties recognize that from time to time, the Sites Authority may re-regulate flows on Funks and/or Stone Corral Creeks for the purposes of public safety to prevent downstream flooding impacts, resulting in water from Funks and/or Stone Corral Creeks being temporarily stored for less than 30 days in Sites Reservoir. Re-regulation may also occur during Project construction to manage flows through construction areas for public safety and site stability considerations. The Sites Authority will use best efforts to notify MID in advance of the re-regulation, or as soon as possible after the re-regulation has occurred if advance notice was not possible, and coordinate to ensure that MID's ability to exercise MID Water Rights is not impacted. Such notification of re-regulation is not the Initial Notification and does not trigger the Weekly Notification requirements.
- 5. The Parties recognize that these Standard Operating Procedures and the criteria used herein are based on current physical, regulatory and climatic conditions. The Parties agree that changed conditions warrant evaluation of these Standard Operating Procedures consistent with Section 7 of the Agreement and will act consistent with Section 6 of the Agreement to negotiate changes to these Standard Operating Procedures.
- 6. Paragraphs 1, 4, and 6 of this Standard Operating Procedures are effective upon the effective date of the Agreement as described in Paragraph 8.a. of the Agreement. Paragraphs 2 and 3 of this Standard Operating Procedures go into



effect when the Sites Authority determines the initial Project construction is substantially completed or when the Sites Authority begins to store water in Sites Reservoir beyond re-regulation of water described in Paragraph 4 of this Standard Operating Procedure, whichever comes first.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE NORTH DELTA WATER AGENCY  
AND THE SITES PROJECT AUTHORITY**

This Memorandum of Understanding ("MOU") is dated and effective this <sup>30<sup>TH</sup></sup> day of AUGUST, 2023, by and between the North Delta Water Agency ("NDWA") and the Sites Project Authority ("Sites"). These entities are hereinafter collectively referred to as the "Parties" and individually as a "Party."

**RECITALS**

A. NDWA represents water users within approximately 300,000 acres in the Delta. NDWA is a party to a Contract for the Assurance of a Dependable Water Supply of Suitable Quality ("1981 Contract") with the California Department of Water Resources ("DWR"), under which NDWA makes certain payments to DWR in exchange for DWR's making water of a specified quality and adequate quantity available for the use of diverters within NDWA boundaries. The 1981 Contract, as amended in 1997, imposes year-round water quality criteria as measured at seven monitoring locations as identified in the 1981 Contract.

B. Sites was formed by seven regional agencies in August 2010 as a Joint Powers Agency to develop, construct, and operate a water storage reservoir project ("Sites Reservoir") located west of Maxwell, California, that currently includes the diversion and storage of up to 1.5 million acre-feet of water from the Sacramento River, at a rate not to exceed 4,200 cubic feet per second, with dams at Stone Corral Creek and Funks Creek, between September 1 and June 14.

C. Sites conducted extensive water availability analyses to confirm its ability to comply with Water Code section 1260(k) by demonstrating that a "reasonable likelihood that unappropriated water is available for the proposed appropriation." The analysis looked at six water supply scenarios, ranging from historical conditions to climate change predictions through 2070, and a specific unimpaired flow scenario requested by the State Water Resources Control Board ("State Water Board"). The scenarios showed the amount of available water varies annually from an average of 658,000 acre-feet to an average of over 1.5 million acre-feet of water that would be available for appropriation to storage in Sites Reservoir. Sites's CalSim hydrologic modeling results suggest about 300,000 acre-feet of water would be diverted to Sites as an annual average.

D. On May 11, 2022, Sites submitted a water right application (A025517X01) to the State Water Board for authorization to divert water to the proposed Sites Reservoir under certain conditions, in conjunction with a petition requesting partial assignment of state-filed application A025517 and petitions requesting release from priority of state-filed applications A025513, A022514, A022235, A023781, and any unassigned portion of state-filed application A025517 in favor of application A025517X01.

E. The State Water Board noticed the Sites water right application and associated filings on June 2, 2023, with a deadline for protests of August 1, 2023. Pursuant to Water Code sections 1330 and 10504.01, the notice advised any interested person may file a protest that

specifically sets forth their objections and the bases for those objections, accompanied by statements of fact supporting the allegations being made.

F. On June 13, 2023, NDWA submitted a letter to the State Water Board requesting an extension on the deadline to consider whether it will file a protest to the Sites water right application, citing a need to consult with its scientific and technical experts and its constituents who may be adversely affected by the proposed project. The State Water Board extended the deadline for protests to August 31, 2023.

G. To better understand the proposed project and ascertain whether the Parties can resolve NDWA's potential protest, representatives of the Parties met and conferred on April 19, 2023, and August 10, 2023, in advance of a formal protest proceeding before the State Water Board and continued communications between meetings.

H. In the course of its communications with Sites, NDWA raised concerns that diverting Sacramento River water upstream from the Delta to the Sites Reservoir could adversely affect water users within NDWA by reducing freshwater flows and altering surface water elevations in the Delta, or by impacting DWR's ability to operate the State Water Project in compliance with the 1981 Contract.

I. In response, Sites has provided NDWA information on the contemplated operational conditions that are currently proposed in its project description and which it expects will be imposed by the State Water Board, the California Department of Fish and Wildlife ("CDFW"), DWR, and the United States Bureau of Reclamation. The operational conditions are identified below.

J. Sites expects CDFW to issue an incidental take permit for Sites Reservoir that includes a project-specific diversion criteria requiring flows measured in the Sacramento River at Wilkins Slough to exceed the following minimums for Sites to divert from the Sacramento River:

- (i) 10,700 cubic feet per second (cfs) from October 1 through June 14; and
- (ii) 5,000 cfs from September 1 through September 30.

In addition, to provide pulse flow protection for fish migration, Sites will not be permitted to divert for seven days when flows measured in the Sacramento River at Bend Bridge exceed 8,000 cfs and combined tributary flow (Cow Creek, Cottonwood Creek, and Battle Creek) exceeds 2,500 cfs. Sites anticipates CDFW will issue an incidental take permit before the State Water Board acts on application A025517X01. Any water right permit issued by the State Water Board is expected to include a term requiring compliance with the incidental take permit.

K. Sites has proposed and expects that any permit to divert water to storage pursuant to application A025517X01 will be limited by the State Water Board to the period of September 1 through June 14 (the period the Sacramento River is not deemed fully appropriated), and only when all of the following conditions are present:

(i) The Delta is in “excess” conditions, as determined by Reclamation and DWR under their Coordinated Operations Agreement. Excess conditions are delineated as periods when it is mutually agreed that releases from upstream reservoirs plus unregulated flow exceed Sacramento Valley in-basin uses plus exports. During excess conditions, sufficient water is available to meet all beneficial needs and the Central Valley Project (“CVP”) and State Water Project (“SWP”) are not required to supplement the supply with water from the projects’ reservoir storage.

(ii) Senior downstream water rights have been satisfied.

(iii) Flows are available above those needed to meet all applicable laws, regulations, incidental take permit conditions, biological opinions, and court orders in place at the time of diversion.

Sites’ modeling shows that based on these operational criteria the majority of its diversions will occur during wet months of wet years, which historically occurred during periods when water quality within NDWA was well within the 1981 Contract criteria.

L. Sites anticipates that releases from Sites Reservoir may be made available in the form of exchanges during dry periods to meet the demands of CVP and SWP contractors that would otherwise be released from Shasta or Oroville, which could result in enhanced cold water storage.

M. Sites anticipates the release of water from Sites Reservoir for its members will occur during drier years when the members’ demands cannot be met from existing sources. Releases for south of Delta members will occur during the water transfer conveyance window (roughly, July through November), when capacity is available at existing export facilities. Sites conducted modeling analyses based on these operational conditions for its environmental review processes and Water Availability Analyses and shared an evaluation specific to changes in NDWA water quality. The analyses performed and shared by Sites show increased flow into the Delta during these periods, which may result in water quality benefits within NDWA.

N. The principal purpose of this MOU is to memorialize the Parties’ mutual understanding that the contemplated operational conditions for Sites Reservoir will avoid adverse effects on water quality and supply within NDWA’s boundaries.

O. In the event one or more of the discussed operational conditions may be altered after initial approvals that would enable Sites to divert outside of the prescribed season, at lesser bypass flow levels, at greater rates or quantities, or at different points of diversion or redirection than are currently proposed, NDWA will have opportunities to participate in the public administrative and legal proceedings that will occur, both pursuant to CEQA and State Water Board processes, including the ability to file complaints if Sites is not in compliance with its water right permit terms and conditions.

## **UNDERSTANDINGS**

1. This MOU shall be effective between Sites and NDWA, for the purpose of establishing Sites and NDWA's mutual understanding that the Sites Reservoir's proposed operations, including the proposed operational terms and conditions applicable to the Sites Reservoir, will not adversely affect compliance with the water quality criteria and water supply assurances of NDWA's 1981 Contract.
2. Sites agrees that if the State Water Board issues a water right pursuant to application A025517X01, its annual diversion of water to storage will be limited to the period of September 1 through June 14.
3. Sites expects that its diversion of water will be further subject to the following proposed operational conditions, either in its water right permit or in an incidental take permit to be issued by CDFW:
  - a. The Delta must be in excess conditions.
  - b. The following minimum bypass flows in the Sacramento River as measured at Wilkins Slough shall be met:
    - i. Greater than 5,000 cfs from September 1 through September 30.
    - ii. Greater than 10,700 cfs in October through June 14.
4. Sites will operate its release of stored water for south of Delta members during the summer and fall months (roughly, July through November), when supplemental water is needed, and during periods when water released from Sites Reservoir is able to be rediverted at state and federal facilities such as at the existing Delta export facilities.
5. Sites agrees it does not currently intend to seek modification of the terms and conditions of the incidental take permit it shall obtain from the California Department of Fish and Wildlife or any water right permit under application A025517X01 that would enable it to deviate from the minimum bypass flows proposed at Wilkins Slough identified in Paragraph 3.
6. Sites agrees it will comply with the specific term it has proposed to be incorporated in its water right permit that prohibits any diversion to Sites Reservoir that would adversely affect the operation of the CVP or SWP.
7. The proposed term defines adverse effects to include diversions at any time Reclamation and DWR have declared the Delta to be in balanced water conditions pursuant to their Coordinated Operation Agreement, unless otherwise agreed by Reclamation and DWR.
8. The proposed term defines adverse effects to also include any time that such diversion would directly or indirectly require the CVP or SWP to release water from storage or to reduce their diversion or rediversion of water from the Delta to provide or assure flow in the Delta required to meet any applicable provision of state or federal law.

9. Sites agrees that the flows in the Delta needed to meet applicable provisions of state law include any flows DWR is contractually obligated to supply to NDWA under the 1981 Contract.

10. Sites asserts that the Sites Reservoir will function independently, with or without a new Delta conveyance system. The 2021 Revised Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement for the Sites Reservoir evaluates Sites Reservoir as a standalone project. Therefore, NDWA understands this to mean that the currently proposed Delta Conveyance Project, or successor conveyance project, cannot divert water released from the Sites Reservoir at proposed North Delta points of diversion without a modification of the Sites water right permit, at which time NDWA would have an opportunity to protest such changes to terms and conditions cited herein.

11. Sites commits to contact NDWA in advance of any Sites generated request or decision by others to alter or modify the proposed terms and conditions of its water right permit, incidental take permit, or other operational conditions, and will transmit future related development and planning updates to NDWA to avoid inadvertent missed communications.

12. NDWA has determined that the Sites Reservoir's proposed operations will not adversely affect its contractual rights under the 1981 Contract and agrees that it will not file a formal protest to application A025517X01.

12. NDWA reserves all rights to challenge the Sites Reservoir project in future administrative or judicial proceedings in the event of changes in the project that will cause harm to NDWA or its constituents.

13. This document contains the entire understanding of the Parties regarding the Sites Reservoir project and supersedes all prior understandings, agreements or representations, written or oral, regarding that project.


#### **NORTH DELTA WATER AGENCY**

By:   
Melinda Terry

Title: Manager

Date: 8-28-23

#### **SITES PROJECT AUTHORITY**

By: 

Title: EXECUTIVE DIRECTOR

Date: 8/30/23

## **SETTLEMENT AGREEMENT**

This settlement agreement (Agreement) is made on the 7th of June 2024, between the California Department of Water Resources, an agency of the State of California (DWR), the Sites Project Authority, a joint powers authority formed under the laws of the State of California (Sites Authority), and the State Water Contractors, a non-profit association of 27 public water agencies with long-term water supply contracts with DWR (SWC). DWR, Sites Authority, and SWC may be referred to individually as “Party” or collectively as “Parties.”

### **RECITALS**

WHEREAS, the Sites Authority was formed on August 26, 2010, when certain Northern California local governments executed a Joint Exercise of Powers Agreement (JPA), last revised on November 21, 2016. The current members of the Sites Authority are Colusa County Water District, County of Colusa, County of Glenn, Glenn-Colusa Irrigation District, Placer County Water Agency/City of Roseville, Reclamation District 108, Sacramento County/City of Sacramento, Tehama-Colusa Canal Authority, and Westside Water District.

WHEREAS, the primary purpose of the Sites Authority is to pursue the development and construction of the Sites Reservoir Project (Sites Project), which has been evaluated as an off-stream storage project to provide benefits to instream flows, the Sacramento-San Joaquin Delta (Delta) ecosystem, and water supply throughout the State;

WHEREAS, DWR owns and operates the State Water Project (SWP), which provides water supplies to a geographic area that spans from Plumas County in the north to San Diego County in the south, serving 27 million Californians and 750,000 acres of agricultural land. DWR has entered into water supply contracts for the delivery of SWP water with 29 public water entities located in different regions of the State.

WHEREAS, DWR operates the SWP and the Bureau of Reclamation (Reclamation) operates the Central Valley Project (CVP) consistent with the November 23, 1986 agreement between the United States of America and the State of California for Coordinated Operation of the Central Valley Project and the State Water Project (COA), which was amended in 2018 and defines how the SWP and CVP share water quality and environmental flow obligations within the Delta imposed by regulatory agencies, including the State Water Resources Control Board;

WHEREAS, DWR holds water rights to appropriate water for the SWP that could be impacted by the Sites Authority’s proposal to divert water from the Sacramento River and local creeks;

WHEREAS, the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1) authorized \$2.7 billion designated for the Water Storage Investment Program (“WSIP”). WSIP provides funding for investments in water storage projects that provide public benefits. The California Water Commission is responsible for administering funding to eligible projects under WSIP, and has conditionally awarded funding to the Sites Authority for the Sites Project;



WHEREAS, the Sites Authority is developing and intends to enter into separate benefits agreements with state agencies under WSIP and with Reclamation under the Water Infrastructure Improvements for the Nation Act to obligate certain benefits of the Sites Project to state purposes, including for ecosystem, flood control and recreational purposes, as well as ~~federal~~ purposes;

WHEREAS, on May 11, 2022, the Sites Authority filed Application A025517X01 to appropriate up to 1.5 million acre-feet per year of unappropriated water to storage for the Sites Project, with a maximum diversion rate of 4,200 cubic feet per second from the Sacramento River from September 1 to June 14 of each year;

WHEREAS, as part of the Sites Application, the Sites Authority, with concurrence of DWR and Reclamation, proposed a permit term in Appendix H intended to protect SWP and CVP water rights and supplies from adverse effects caused by the Sites Project;

WHEREAS, the Authority, DWR, and Reclamation have been negotiating an Operations Agreement to prevent or compensate for any adverse effects resulting from the operation of Sites Reservoir;

WHEREAS, the SWC is a non-profit organization representing 27 of the 29 public water entities that hold long-term water supply contracts with DWR for the delivery of SWP water that SWC member agencies use to provide municipal, industrial, and agricultural water supplies to their customers. SWC's member agencies finance the maintenance, operations, and capital improvement costs of the SWP through their water supply contracts with DWR. SWC filed a protest to the Sites Application on August 31, 2023, to protect SWP water rights and water supplies (Protest);

WHEREAS, the Operations Agreement will not amend or alter and will comply with the requirements of the SWC member agencies' long-term water supply contract;

WHEREAS, the Parties share the goals of water supply reliability, improved operations of state water systems, and avoiding interference in another Party achieving its operational goals so far as consistent with water right priorities and the full exercise of existing water rights permits, including as they may be modified from time to time;

WHEREAS, this Agreement is intended to resolve SWC's Protest, to fully protect DWR's water rights for the SWP to the extent affected by the Sites Application, and to protect SWP water supplies available to SWC's member agencies to the extent affected by the Sites Application;

Therefore, Sites Authority, DWR, and SWC agree as follows:

## **AGREEMENT**

### **1. Additional Definitions**

A. "Adversely affect" means to directly or indirectly injure DWR Water Rights, interfere with the SWP's ability to meet regulatory requirements, including mitigation

requirements in permits or other approvals, and/or reduce SWP water supply, including storage in Lake Oroville and San Luis Reservoir and diversions and exports from the Delta.

B. “Adverse Effect” means a direct or indirect injury to DWR Water Rights, interference with the SWP’s ability to meet regulatory requirements, including mitigation requirements in permits or other approvals, and/or reduction in SWP water supply, including storage in Lake Oroville and San Luis Reservoir and diversions and exports from the Delta.

C. “Central Valley Project” or “CVP” means the federal water project owned and operated by Reclamation.

D. “COA” means the “Agreement between the United States of America and the State of California for Coordinated Operations of the Central Valley Project and the State Water Project” dated November 24, 1986, amended December 12, 2018, and as it may be amended.

E. “Delta” means the Sacramento-San Joaquin Delta as described in California Water Code Section 12220.

F. “DCP” means the Delta Conveyance Project which includes the physical infrastructure described in the Final Environmental Impact Report for the DCP dated December 2023 and associated “Decision Regarding the Delta Conveyance Project Final Environmental Impact Report” dated December 21, 2023, including but not limited to two new water intakes that can convey up to 6,000 cfs on the Sacramento River in the north Delta and a single main tunnel to divert and move water entering the north Delta from the Sacramento Valley watershed to the existing Bethany Complex.

G. “DWR Water Rights” means the water rights held by DWR as of the date of the issuance of the Sites Water Right for the SWP, with all future approved modifications to those existing water rights including future approved changes to support DCP, and licensing of those water rights. Such rights include the following: Application A005630/Permit 016478; Application A014443/Permit 016479; Application A014445A/Permit 016481; Application A107514A/Permit 016483; and Application A017512/Permit 016482.

H. “Excess Conditions” means periods when releases from upstream reservoirs plus unregulated flow exceed the water supply needed to meet Sacramento Valley in-basin uses, Delta water quality and outflow requirements, and Delta exports, as determined by Reclamation and DWR pursuant to the definition in Article 3(c) of the COA.

I. “Excess Conditions with Export Restrictions” or “ECER” means conditions where Excess Conditions exist, but Delta exports are constrained by non-discretionary requirements imposed on the CVP and the SWP, as determined by Reclamation and DWR pursuant to the definition in Article 3(c) of the COA.

J. “In-Basin Use” or “IBU” is as defined in COA.

K. “Operations Agreement” means an operations agreement that is currently being negotiated and is anticipated to be executed in the future by DWR, the Sites Authority and

Reclamation to provide for close coordination and a decision-making process among these entities during the operations of the SWP, Sites Project, and CVP.

L. “Regulatory Requirements” include but are not limited to conditions that are imposed on DWR water rights by the State Water Resources Control Board or conditions that affect DWR water rights that are imposed by the United States Fish and Wildlife Service and National Marine Fisheries Service in the Long-Term Operations Biological Opinions, the California Department of Fish and Wildlife in Incidental Take Permits for Long-Term SWP Operations, the Federal Energy Regulatory Commission in the Oroville hydropower license and the Army Corps of Engineers under its Rivers and Harbors Act authority.

M. “Sacramento River ECER” means a subset of Excess Conditions with Export Restrictions where the non-discretionary requirements imposed on the CVP and/or the SWP are related to flow conditions on the Sacramento River, including Delta inflow and Delta outflow requirements.

N. “Sites Application” means Application A025517X01 filed by the Sites Authority on May 11, 2022, to appropriate up to 1.5 million acre-feet per year of unappropriated water to storage for the Sites Project, with a maximum diversion rate of 4,200 cubic feet per second from the Sacramento River from September 1 to June 14 of each year.

O. “Sites Authority” means the Sites Project Authority, a JPA formed under the laws of the State of California on August 26, 2010, by certain Northern California local governments that executed a Joint Exercise of Powers Agreement, revised on November 21, 2016, and as it may be amended. The Sites Authority also includes its successors and assigns.

P. “Sites Storage Partners” means the entities that pay to participate and receive benefits in the Sites Project, including certain Sites Authority members, other municipal entities, special districts, the State of California through the California Water Commission, and the United States through Reclamation.

Q. “Sites Water Right” means any water right that may be issued to the Sites Authority for the benefit of Sites Storage Partners under Application A025517X01.

R. “State Water Project” or “SWP” means the multi-purpose water storage and delivery system operated by DWR.

S. “Reclamation” means the United States Department of the Interior, Bureau of Reclamation.

T. “Water Supply Contracts” means those long-term contracts between DWR and agencies, including SWC member agencies, that entitle those agencies to receive water provided by the SWP.

## **2. Water Rights Priority and Protections**

2.1 The Parties agree that DWR Water Rights are senior in priority to a Sites Water Right.

2.2 The Sites Authority shall adhere to the following permit term and submit the following permit term to the State Water Resources Control Board as a replacement for the proposed permit term for the protection of SWP and CVP set forth in Appendix H of the Sites Application. Changes to the term included in the Sites Application are shown in underline/strikethrough below.

*Central Valley Project & State Water Project Term*

*No diversion is authorized that would adversely affect the operation of the Central Valley Project or State Water Project under the Projects' existing water rights in effect on the date of this Order and as such existing water rights may be modified. ~~An adverse effect shall be deemed to result from permittee's diversion~~ No diversion is authorized at any time the Bureau of Reclamation and the Department of Water Resources have declared the Delta to be in balanced water conditions under the Coordinated Operation Agreement, unless otherwise agreed by the Bureau of Reclamation and the Department of Water Resources. An adverse effect shall ~~also~~ but not be limited to any time that such diversion would directly or indirectly require the Central Valley Project or the State Water Project to release water from storage or to reduce their diversion or redirection of water from the Delta to provide or assure flow in the Delta required to meet any applicable provision of state or federal law. All Sites Project diversions shall also comply with the provisions of any operations agreement among the Department of Water Resources of the State of California, the Bureau of Reclamation, and the Sites Reservoir Joint Powers Authority, as may be amended from time to time.*

In addition, the Sites Authority shall adhere to the following term and submit the following term to the State Water Resources Control Board for inclusion in any permit issued on the Sites Application:

*All diversions pursuant to a Sites Water Right shall comply with the provisions of any settlement agreement among the Sites Reservoir Joint Powers Authority, the State Water Contractors, and the Department of Water Resources, as it may be amended from time to time.*

2.3 The Parties agree that the Sites Authority may not divert pursuant to a Sites Water Right during Sacramento River ECER unless DWR has reasonably found that a proposed diversion pursuant to a Sites Water Right will not cause an Adverse Effect.

2.4 The Parties acknowledge that there may be situations where DWR asserts that diversions pursuant to a Sites Water Right resulted in an Adverse Effect. If DWR asserts that such past diversions have had an Adverse Effect, the Sites Authority and DWR shall meet and confer. If it is found by DWR after the meet and confer with Sites Authority that such past diversions had an Adverse Effect, the Sites Authority shall return to DWR the quantity of water found by DWR to have resulted in the Adverse Effect (payback water). The Parties agree that any operable "payback water" process in an Operations Agreement shall provide DWR with no less than sixty (60) days to assert that a past diversion has had an Adverse Effect. If SWC presents evidence to DWR that an Adverse Effect has resulted from such past diversions

pursuant to a Sites Water Right, DWR shall consider and provide a timely written response to the evidence that SWC has presented.

2.5 The Sites Authority shall not claim any protection or priority for a Sites Water Right under a theory of area of origin, watershed of origin, or county of origin, including any claim made pursuant to Water Code Sections 1215 to 1222, 10505, 10505.5, 11128, 11460, 11461, 11462, 11463 and 12200 to 12220, as against DWR Water Rights and water rights held by Reclamation for the CVP as such water rights are in effect on the date of the issuance of the Sites Water Rights, including as such existing water rights may be modified, including perfecting water rights to license. This Paragraph 2.5 does not apply to any individual Sites Authority JPA member or Sites Storage Partner, including any future changes to JPA members or Storage Partners. This Paragraph 2.5 does not alter or amend the existing Memorandum of Understanding between the Sites Authority and Colusa County dated November 22, 2021.

2.6 The Sites Authority shall not object to DWR seeking to change DWR Water Rights for the DCP.

2.7 Contingent upon the submittal by the Sites Authority of the permit terms set forth in Paragraph 2.2 to the State Water Resources Control Board and the execution of this Agreement, SWC shall not pursue its protest to the Sites Application. SWC may participate in the Sites Water Right hearing in a manner consistent with this Agreement which may include cross examining witnesses and providing rebuttal to other protests. SWC shall dismiss its protest contingent up on the State Water Resources Control Board including these terms in the Sites Water Right permit if the Administrative Hearing Officer grants SWC status to participate in the hearing on the Sites Application, including the ability to cross examine and provide rebuttal consistent with this Paragraph 2.7.

### **3. Operations Agreement**

3.1 Any Operations Agreement, including any amendment thereto, shall be consistent with and not less restrictive than the terms of this Agreement along with federal and state law and regulation.

3.2 DWR shall coordinate with SWC during the development of the Operations Agreement and any subsequent amendment, including sharing drafts early in the process. DWR shall share the Operations Agreement and any subsequent amendment thereto with SWC no later than twenty (20) days prior to finalizing and provide SWC with the opportunity to comment. DWR shall consider SWC's comments, document how each comment was addressed, and share this documentation with SWC prior to signing the Operations Agreement or any subsequent amendment thereto.

3.3 The Parties agree that nothing in the Operations Agreement, including as it may be amended, may alter or amend the COA. The Parties agree that any diversions pursuant to the Sites Water Right will not be considered an IBU under COA.

3.4 The Sites Authority shall notify DWR and SWC of the date and rate of a planned diversion pursuant to a Sites Water Right at least seven (7) days before the planned diversion, or earlier if possible. If Sacramento River ECER is forecasted, DWR shall notify concurrently the



Sites Authority and SWC whether the planned diversion can be made consistent with Paragraph 2.3 following the communications protocol described in the Operations Agreement, and before a planned diversion pursuant to a Sites Water Right. Sites Authority shall stop diverting if DWR determines, after a diversion has commenced, that the diversion can no longer be made consistent with Paragraph 2.3.

If SWC submits written comments on a diversion made pursuant to a Sites Water Right, DWR shall provide a timely written response.

3.5 DWR and the Sites Authority shall meet annually to comprehensively analyze diversions made pursuant to a Sites Water Right, including whether the diversions have caused Adverse Effects, and shall summarize this analysis in a report. DWR shall provide SWC with the draft report and an opportunity to comment at least thirty (30) days prior to finalizing the report. If SWC disagrees with a finding in the report, SWC will notify DWR and the Sites Authority, and the Parties will collaboratively work to resolve the disagreement.

3.6 Notices and written communications pursuant to Paragraphs 2.4, 3.4 and 3.5 shall be directed, as applicable, to the general manager and assistant general manager of SWC, the Deputy Director of the SWP and the executive director of the Sites Authority.

3.7 The Parties acknowledge that laws and regulations that govern SWP and/or CVP water operations will change over time and new SWP and/or CVP facilities may be constructed which will require review of the Operations Agreement. When there is a need to modify the Operations Agreement, to add or delete language, the Parties to the Operations Agreement will meet and confer and mutually agree to execute an amendment to the Operations Agreement within a reasonably expedient timeframe to protect against Adverse Effects to SWP and/or CVP operations.

#### **4. Dispute Resolution**

4.1 Informal Dispute Resolution. In the event of dispute regarding interpretation or implementation of this Agreement, the general manager of SWC, executive director of the Sites Authority, and SWP Deputy Director, or their authorized representatives, shall endeavor to resolve the dispute by meeting within thirty (30) days after the request of a Party. If the dispute remains unresolved, the Parties will endeavor to resolve the dispute through mediation, as specified in Paragraph 4.2. No other means of dispute resolution, including mediation or litigation, shall be available to the Parties unless they have exhausted the process provided for in this Paragraph 4.1.

4.2 Mediation. If a dispute cannot be resolved through informal dispute resolution as described in Paragraph 4.1, the Parties shall endeavor to settle the dispute using non-binding mediation under the rules of any neutral organization agreed upon by the Parties before having recourse in a court of law. Mediation shall be commenced by sending a notice of demand for mediation to the other Parties.

A single mediator that is acceptable to the Parties shall be used to mediate the dispute. The mediator will be knowledgeable in the subject matter of this Agreement, if possible.

The expenses of witnesses for either side shall be paid by the Party producing such witnesses. All mediation costs shall be equally shared by the Parties to the dispute.

Mediation will be conducted in an informal manner. Discovery shall not be allowed. The discussions, statements, writings and admissions and any offers to compromise during the proceedings will be confidential to the proceedings (Evidence Code §§ 1115 – 1128; 1152, 1154) and will not be used for any other purpose unless otherwise agreed by the Parties in writing.

Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the Parties.

If the Parties fail to resolve their dispute through mediation, including execution of a final written agreement, a Party may, at its option, pursue any available legal remedy provided that SWC's sole and exclusive legal remedy against DWR under the Agreement is specific performance of Paragraphs 2.3 and 2.4 and Sections 3 through 11, and provided that SWC will not seek legal remedies against DWR for injunctive relief, damages or monetary compensation arising from DWR's discretionary decisions with regards to SWP operations involving or relating to the Sites Project.

4.3 Continued Performance. Nothing in this Paragraph 4 shall relieve the Parties from performing their obligations under this Agreement. The Parties shall be required to comply with this Agreement, including the performance of all disputed activity, pending the resolution of any dispute under this Agreement.

**5. Specific Performance.** Except as limited in Paragraph 4.2, the Parties agree that specific performance is an appropriate remedy for an alleged breach of this Agreement, in addition to any other available judicial or administrative relief.

**6. Severability.** If any provision of this Agreement is found to be unlawful or unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.

**7. Each Party to Bear Own Costs and Fees.** Each party to this Agreement shall bear its own attorney's fees and other costs incurred in the preparation, negotiation, and drafting of this Agreement.

**8. Amendments.** This Agreement cannot be modified except by a written document signed by all of the Parties.

**9. Warranty of Authorization.** Any person executing this Agreement on behalf of any Party does hereby personally represent and warrant to the other Parties that he/she/it has the authority to execute this Agreement on behalf of, and to fully bind, such Party.

**10. Governing Law.** This Agreement shall in all respects be interpreted, enforced and governed by and under the laws of the State of California applicable to instruments, persons and transactions having legal contacts and relations solely within the State of California.

**11. Execution in Counterparts.** This Agreement may be executed in counterparts by the Parties and shall become effective and binding upon the Parties at such time as all of the

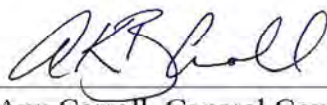


signatories hereto have signed the original or a counterpart original of this Agreement. All counterparts so executed shall constitute one Agreement, binding upon all of the Parties hereto, notwithstanding that all of the Parties are not signatory to the original or the same counterpart.

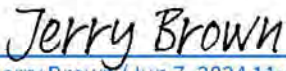
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

CALIFORNIA DEPARTMENT OF  
WATER RESOURCES

By:   
\_\_\_\_\_  
~~Karla Nemeth (Jun 11, 2024 12:23 PDT)~~  
Karla Nemeth, Director

By:   
\_\_\_\_\_  
Ann Carroll, General Counsel

SITES PROJECT AUTHORITY

By:   
\_\_\_\_\_  
~~Jerry Brown (Jun 7, 2024 11:47 PDT)~~  
Jerry Brown, Executive Director

STATE WATER CONTRACTORS

By:   
\_\_\_\_\_  
~~Jennifer Pierre (Jun 7, 2024 11:20 PDT)~~  
Jennifer Pierre, General Manager

# **Attachment B**

## **Facility Descriptions**

The following sections describe the facilities that may be used in the operation of the Project. The location of these facilities is shown in Figure 2 and Figure 3 of the Operations Plan. Facilities are described below in order of operational process (i.e., diversion, storage, release).

### **Diversion and Conveyance Facilities**

#### **i. Red Bluff Pumping Plant, Tehama-Colusa Canal, and Funks Reservoir**

The Project would divert water from the Sacramento River at the existing RBPP and Hamilton City Pump Station (described below). Water diverted at the RBPP enters the TC Canal to be conveyed to Sites Reservoir. The RBPP and TC Canal are owned by Reclamation and operated by the TCCA. Diversions at the RBPP will be in addition to those occurring for TCCA members as part of their CVP contracts. The RBPP will have a capacity of 2,500 cfs after capacity improvements are made to serve the Project. The facility has a fish screen that meets National Marine Fisheries Service and CDFW criteria for 2,500 cfs. The total conveyance capacity of the TC Canal at the upstream end of the canal is 2,530 cfs and 2,100 cfs at Funks Reservoir (described below).

The TC Canal is concrete lined, resulting in relatively minor seepage losses during the conveyance of Sites Water. Losses occurring between the RBPP and Sites Reservoir are estimated to be 1 to 2 percent. However, the actual losses incurred will be estimated during Project operations. The TC Canal can be out of service for maintenance periodically during the mid-December to mid-February timeframe.

The existing Funks Reservoir will be used as a regulating reservoir to temporarily store water from the TC Canal for pumping to, and for release from, Sites Reservoir. Funks Reservoir will have an estimated storage capacity of 2,250 AF following dredging to restore the regulating reservoir's original design capacity. Funks Reservoir is periodically drained from mid-December to mid-February during the canal maintenance period. Funks Reservoir operates at a water surface elevation of 200 to 205 feet, with a preferred operational water surface elevation range of 202 to 204 feet.

The newly constructed Funks PPGP will be used to pump water from Funks Reservoir to Sites Reservoir with a pumping capacity of 2,100 cfs and a generating capacity of up to 2,000 cfs. The pumping generating plant will require a substation to provide electricity to the associated facilities. The newly constructed Funks Pipeline will convey water approximately 1 mile between the pumping generating plant and Sites Reservoir.

#### **ii. Hamilton City Pump Station, Glenn-Colusa Irrigation District Main Canal, and Terminal Regulating Reservoir**

Water diverted from the Sacramento River at the existing Hamilton City Pump Station enters the GCID Main Canal. The Hamilton City Pump Station and the GCID Main Canal are owned and operated by GCID. Diversions at the Hamilton City Pump Station will be in addition to those occurring for uses in the GCID system. The Hamilton City Pump Station has a diversion capacity of approximately 3,000 cfs at the Sacramento River intake. The facility has a fish screen that meets National Marine Fisheries Service and

CDFW criteria. The total conveyance capacity of the GCID Main Canal is assumed to be 1,800 cfs at the TRR, described below.

The GCID Main Canal is unlined, resulting in larger seepage losses than the TC Canal during the conveyance of Sites Water. Losses from the Hamilton City Pump Station to Sites Reservoir are estimated to be 2 percent from November to March and 13 percent from April to October. However, the actual losses incurred from the Hamilton City Pump Station to Sites Reservoir will be estimated during Project operations. The GCID Main Canal maintenance time is generally 2 weeks in late January or early February.

The newly constructed TRR will be a regulating reservoir with up to 600 AF capacity constructed adjacent to the GCID Main Canal, approximately 2 miles east of Funks Reservoir. The TRR would have earthen embankments at the perimeter with impermeable lining consisting of a geomembrane overlying geocomposite placed over compacted earth. The TRR would be hydraulically connected to the GCID Main Canal to allow water to be conveyed to and from Sites Reservoir. The TRR would accommodate inflows of up to 1,800 cfs.

The newly constructed TRR PGP will be used to pump water from the TRR to Sites Reservoir with a pumping capacity of 1,800 cfs. The generating plant will have a capacity of 1,000 cfs. TRR pipelines would convey water approximately 4 to 4.5 miles between the TRR PGP and Sites Reservoir.

## **Release and Conveyance Facilities**

The following sections provide a general description of the release and conveyance facilities that may be used in the operation of Sites Reservoir. The location of these facilities is shown in Figure 2 and Figure 3.

### **i. Tehama-Colusa Canal**

Most releases from Sites Reservoir would flow into the existing Funks Reservoir and into the existing TC Canal. Sites Water would flow within the TC Canal and would either be diverted for delivery to local Storage Partners or would flow 40 miles south to the new Dunnigan Pipeline. Releases to the TC Canal would be limited by available downstream capacity in the TC Canal, Dunnigan Pipeline, lower Colusa Basin Drain, and export capacity (if applicable). Water would be released from the TC Canal into the Dunnigan Pipeline through a gravity outlet structure.

### **ii. Dunnigan Pipeline**

The Dunnigan Pipeline will convey Sites Water from the TC Canal to the Colusa Basin Drain. The conveyance through the Dunnigan Pipeline to the Colusa Basin Drain would use gravity and has a proposed capacity of 1,000 cfs.

### **iii. Colusa Basin Drain**

The Dunnigan Pipeline will convey Sites Water to the existing Colusa Basin Drain at a maximum flow of 1,000 cfs. From the Colusa Basin Drain, water may either be discharged into the Yolo Bypass or into the Sacramento River for redirection downstream. Water discharged into the Yolo Bypass/Cache Slough Complex will flow from the Colusa Basin Drain through the Knights Landing Ridgecut. This water will be used for Proposition 1 benefits or for diversion into the North Bay Aqueduct. Water can also flow to the Sacramento River via the Knights Landing Outfall Gates.

#### **iv. Glenn-Colusa Irrigation District Main Canal**

Sites Water will also be released into the TRR and the GCID Main Canal for use by GCID or wildlife refuges as environmental water for Proposition 1. Sites Water may be released to the GCID system for delivery to wildlife refuges north of the Delta in all water year types but is generally not needed in wet year types. The water could be delivered any time of the year, although it is expected that it rarely would be released for this purpose from January through March during the Project's primary diversion season.

## Attachment C

### Additional Appropriative Water Rights that are Senior to Project Diversions

Priority Date	Application Number	Permit Number	Owner
<b>Those Generally Applicable to Diversions from Funks and Stone Corral Creeks</b>			
11/29/1979	A026141	19426	Buckhorn Ranch
3/12/1987	A028985	20401	Garreth B Schaad
05/30/1995	A030445	21004	Maxwell Irrigation District
11/5/1980	A026604	19117	Mumma Bros A Partnership
4/13/1992	A029471	20615	Knaggs Farming Land Company, LP & Hersey Land Company, Neal J Dow Family LP
8/4/1992	A030169	20721	Silver Bullet Farms
<b>Those Generally Applicable to Diversions from the Sacramento River</b>			
12/22/1977	A025616	18150	City Of West Sacramento
9/28/1983	A027893	19856	Contra Costa Water District
06/13/1995	A030454	21209	County of Sacramento and Sacramento County Water Agency
02/18/1999	A030838	21101	Glenn-Colusa Irrigation District
05/01/1978	A025727	19400	Natomas Central Mutual Water Company
11/02/1994	A030410	20933	Pelger Mutual Water Company
11/19/1998	A030812	21132	Princeton-Codora-Glenn Irrigation District
11/19/1998	A030813	21133	Provident Irrigation District
05/13/2003	A031436	21274	Reclamation District #108
01/20/2012	A031919	21378	River Garden Farms
09/07/1984	A028238	13351	Willow Creek Mutual Water Company
04/19/1994	A030358	20281	Woodland-Davis Clean Water Agency

## **Attachment D**

### **Exchanges and Related Operational Parameters**

The proposed operation of the Project includes exchanges of water with the CVP and SWP. Exchanges have the potential to assist the CVP and SWP in meeting their regulatory obligations and their authorized purposes including to protect, restore and enhance fish, wildlife, and associated habitats, provide water supply and generate power. Exchanges would only be conducted when they would be neutral or net beneficial to CVP and SWP operations and not affect the ability of the CVP or SWP to meet applicable laws, regulations, biological opinions and incidental take permits, contractual deliveries, and court orders in place at the time. The exchanges are expected to primarily occur with Lake Oroville.

To support timing of releases and deliveries to Storage Partners north and south of the Delta, real-time exchanges or transfers with local Storage Partners may occur. This type of exchange or transfer is most likely to occur with GCID but could also occur with other Sacramento River Settlement Contractors and Reclamation. Instead of diverting all or a portion of its water from the Sacramento River, the local Storage Partner would receive a portion of its water from Sites Reservoir. A portion of the local agencies' supply would be left in the Sacramento River (i.e., not diverted by that contractor or agency) and used for other Storage Partners. This exchange is expected to occur to minimize capacity constraints along the Dunnigan Pipeline as well as the delivery of water to Storage Partners upstream of the release facilities.

Exchanges with Lake Oroville would be done primarily to increase the operational flexibility and yield of Sites Reservoir. Exchanges with Lake Oroville would be formulated to facilitate Project deliveries to Storage Partners and may also improve cold-water pool conditions at Lake Oroville. Under a Lake Oroville exchange, water would be released from Sites Reservoir primarily in June and July to meet SWP purposes. By reducing releases from Lake Oroville in these months, the storage in Lake Oroville would be preserved for use later in the year, typically during critical months of the cold-water pool management season (August and September). In late summer and fall (i.e., August through November), DWR would release an equivalent amount of water from Lake Oroville for Storage Partners.

The following is an excerpt from Appendix 5A1 (pages 5A1-29 through 5A1-31) of the Final EIR/EIS regarding modeled and assumed operational parameters for exchanges.

#### **Real-Time Exchange**

Sites Reservoir may release water via an in-lieu transfer with Glenn-Colusa Irrigation District (GCID). Instead of pumping water from the Sacramento River, GCID would receive its contracted CVP supply via Sites. The water released from Shasta Reservoir that would normally be used to meet the CVP allocations to GCID would instead serve as Sites releases to other Storage Partners.

#### **Oroville Exchange**

The Lake Oroville exchange period would be limited to June and July. This exchange period would start in June due to the high degree of uncertainty in forecasting SOD transfers during spring months. Forecasting SOD transfers any earlier than June would pose a substantial risk to losing Sites water via spills from Lake Oroville. The exchange period would end in July to protect green sturgeon (*Acipenser medirostris*) habitat in August.

In Wet and Above Normal Water Years, Sites transfers to SOD Storage Partners would be limited. As such, Lake Oroville exchanges would occur in Below Normal, Dry, and Critically Dry Water Year types.

The majority of exchange water would be released in August and September because releases from October 15 through November 30 are required to comply with Feather River fall stability flow requirements. Per fall stability flow requirements, total Lake Oroville releases to the Feather River below the Thermalito Afterbay Outlet are limited to 2,500 cfs from October 16 through November (California Department of Water Resources, 2008). All exchange water must be released in the August through November period. If exchange water is not released by the end of November, it would be subject to spill.

The Oroville Exchange operation is summarized in Table 5A1-16.

**Table 5A1-16. Modeled Criteria for Oroville Exchange**

	<b>Modeled Criteria</b>	<b>Notes</b>
<b>Exchange Period</b>	June – July	
<b>Exchange Constraints</b>		
Water year types	Below Normal, Dry and Critically Dry water years	
<b>Release Period</b>	August – November	
<b>Release Constraints</b>		
Max Feather River Flow	Oct: 4,000 cfs Nov: 2,250 cfs	Feather River fall stability flow requirements. Maximum October average flow of 4,000 cfs assumes flow requirement of 2,500 cfs for the 16 <sup>th</sup> through 31 <sup>st</sup> . Maximum November average of 2,250 cfs to protect fall stability flow requirement.
Spills	Spill Sites water in December	Unused Sites water in Oroville is subject to spill



# Attachment E

## Example Forms

This attachment provides examples of the Storage Opportunity Request Form and Release Request Form. Authority staff, in consultation with the Operations and Engineering Workgroup, may adjust these forms as needed without approval of the Reservoir Committee and the Board of Directors (as applicable) as described in the Authority Bylaws. However, each form must allow for at least the following parameters (which cannot be changed without approval of the Reservoir Committee and the Board of Directors, as applicable, as described in the Authority Bylaws):

- Storage Opportunity Request Form
  - Ability for a Storage Partner to entirely fill, partially fill or not fill their Storage Allocation
- Release Request Form
  - Ability for a Storage Partner to leave all of their water in storage or request releases up to all of their water in their Storage Allocation
  - Ability for a Storage Partner to request releases be conveyed to one or multiple Secondary Delivery Points
  - Ability for a Storage Partner to request releases by month, by Delivery Point and/or Secondary Delivery Point(s)

## DRAFT Storage Opportunity Request Form – Example



*Draft form for review and input. Prior to actual reservoir operations, the Authority anticipates converting this form into an electronic format that will auto fill and calculate most values.*

### Contact Information:

<b>Name:</b>	Contact Name Here	<b>Date of Submission:</b>	Date Submitted Here
<b>Contact Name:</b>	Contact Name Here	<b>Water Year:</b>	Effective Water Year Here
<b>Email:</b>	Contact Email Here	<b>Phone Number:</b>	Contact Phone Number Here

### Opportunity Request:

Total Storage Allocation [AF] \_\_\_\_\_ Total Water Available in Storage Allocation [AF] \_\_\_\_\_

☐ Fill Entire Available Storage Allocation  
Estimated Available Storage Allocation [AF] x Estimated Variable O&M Cost [\$X/AF] =  
Total Estimated Variable O&M Cost [\$] \*

☐ Partially Fill Available Storage Allocation  
Fill \_\_\_\_\_ AF  
Fill \_\_\_\_\_ AF of Storage Allocation [AF] x Estimated Variable O&M Cost [\$X/AF] =  
Total Estimated Variable O&M Cost [\$] \*

☐ Do Not Fill Any Available Storage Allocation

\*Estimated Variable O&M Costs for illustrative and planning purposes only. Variable O&M costs will be collected and trued-up consistent with the respective contract. The electronic form will autofill / auto calculate all information except the "Fill \_\_\_\_\_ AF".

Note: Fill opportunity requests are not guaranteed. The Authority will seek to optimize diversions within its permits and approvals, but may not be able to satisfy the entire request.

Storage Allocation is the sum of Storage Allocation owned plus any Storage Allocation shared, leased, or acquired as reflected by the Authority's database. If this amount is not correct, please contact Authority staff immediately.

### Opportunity For Lease of Storage or Sale/Exchange of Sites Water:

☐ Storage Allocation Available for Lease  
\_\_\_\_\_ AF

☐ Sites Water Available for Sale  
\_\_\_\_\_ AF

☐ Sites Water Available for Exchange  
\_\_\_\_\_ AF

---

Contact Information for lease or sale discussions if different than above

**Contact Name:** Contact Name Here

**Phone Number:** Contact Phone Number Here

**Email:** Contact Email Here

---

Note: Information provided in this section will be added to the Sites Storage Partners Lease/Sale List maintained by the Authority and available to all Sites Storage Partners. Do not complete this section if you do not want your information added to this list.

---

## DRAFT Release Request Form for Sites Water – Example



*Draft form for review and input. Prior to actual reservoir operations,  
the Authority anticipates converting this form into an electronic format that will auto fill and calculate some values.*

### Contact Information:

<b>Name:</b>	Contact Name Here	<b>Date of Submission:</b>	Date Submitted Here
<b>Contact Name:</b>	Contact Name Here	<b>Water Year:</b>	Effective Water Year Here
<b>Email:</b>	Contact Email Here	<b>Phone Number:</b>	Contact Phone Number Here

### Release Request:

☐ Do Not Release Stored Water

☐ Total Release Request (in AF)

Jan	Feb	Mar	Apr	May	Jun	Jly	Aug	Sept	Oct	Nov	Dec	Total

Delivery Location(s):

<input type="checkbox"/>	<b>Delivery Point:</b> <u>[Either Funks Reservoir or TRR]</u> (Will auto populate with each individual Delivery Point as specified in the respective contract) <input type="checkbox"/> Deliver all to this location <input type="checkbox"/> Partial delivery to this location (see page 2)
<input type="checkbox"/>	<b>Secondary Delivery Point Included in Sites Water Right:</b> <u>[Specify location here through drop down menu]</u> <input type="checkbox"/> Deliver all to this location <input type="checkbox"/> Partial delivery to this location (see page 2)
<input type="checkbox"/>	<b>Additional Secondary Delivery Point Included in Sites Water Right:</b> <u>[Specify location here through drop down menu]</u> (Electronic form will allow additional lines to be added) <input type="checkbox"/> Deliver all to this location <input type="checkbox"/> Partial delivery to this location (see page 2)
<input type="checkbox"/>	<b>Other Delivery Point Not Included in Sites Water Right*:</b> <u>[Specify location]</u> <input type="checkbox"/> Deliver all to this location <input type="checkbox"/> Partial delivery to this location (see page 2) <small>*Deliveries to locations not in the Sites Water Right will require additional review and approval by the Authority. The Authority does not guarantee that Sites Water can be delivered</small>

	to a point not included in the Sites Water Right during this calendar year. Please contact Authority staff as soon as possible to discuss.
--	--

Note: Release requests are not guaranteed. The Authority coordinate amongst Storage Partners in an effort to optimize releases within its contractual obligations, permits and approvals, but may not be able to satisfy the entire request.

This form is for the purpose of releasing Sites Water only (water developed under the Sites Water Right). Releases of Other Water should be coordinated directly with Authority staff.

**Partial Delivery Amounts by Location:**

Location	Jan	Feb	Mar	Apr	May	Jun	Jly	Aug	Sept	Oct	Nov	Dec	Total
Total													

