



MEMORANDUM

TO: SLDMWA Finance & Administration Committee, Alternates
SLDMWA Board of Directors, Alternates

FROM: Rebecca Akroyd, General Counsel

DATE: May 13, 2024

RE: Resolutions Authorizing Adoption of the Second Amended and Restated Joint Exercise of Powers Agreement and Adoption of Amendments to the Bylaws

BACKGROUND

The San Luis & Delta-Mendota Water Authority (Water Authority) and Friant Water Authority (FWA) are parties to the First Amended and Restated Memorandum of Understanding Relating to Allocation, Collection and Payment of Operation, Maintenance & Replacement Costs for Water Delivered through certain Central Valley Project Facilities effective as of September 1, 2002 (First Amended MOU).

Following facilitated negotiations, in January 2024 FWA and the Water Authority reached agreement in principle and executed a Memorandum of Agreement that confirmed the general terms of proposed amendments to the First Amended MOU, settlement terms regarding the disputes, and amendments to other Water Authority and FWA governing documents.

Following execution of the Memorandum of Agreement, FWA and the Water Authority drafted amendments to the First Amended MOU and its four exhibits in order to develop the "Second Amended and Restated Memorandum of Understanding Between Friant Water Authority and San Luis & Delta-Mendota Water Authority Relating to Allocation, Collection and Payment of Operation, Maintenance and Replacement Costs for Water Delivered Through Certain Central Valley Project Facilities" (the "Second Amended MOU"). In April 2024, the Water Authority Board authorized execution of the Second Amended MOU and actions related thereto. The Second Amended MOU will be executed and become effective following (a) the completion of a sixty-day review of the "2024 SLDMWA OM&R Cost Recovery Plan," Exhibit B to the Second Amended MOU, by all parties with payment obligations under Article 12 of the Water Authority's Transfer Agreement, and (b) submittal to Reclamation for review and comment.

The Second Amended MOU contains provisions that necessitate amendments to the "Amended and Restated San Luis & Delta-Mendota Water Authority Joint Exercise of Powers Agreement" dated January 1, 1992 ("Amended and Restated JPA") and the "San Luis & Delta-Mendota Water Authority Bylaws" ("Bylaws").

ISSUE FOR DECISION

Whether to recommend, and whether to adopt, the proposed resolutions authorizing adoption of the Second Amended and Restated JPA and amendments to the Bylaws.

RECOMMENDATION

Staff recommends adopting the proposed resolutions.

ANALYSIS

JPA

Article V.A.1. of the Second Amended MOU provides that the FWA is entitled to representation on the Board in that a FWA representative may vote on any action item funded in whole or in part, from any OM&R fund or Reserves to which Friant Division Contractors have or will have contributed. In order to allow for FWA participation in Board meetings as described in Article V.A.1 of the Second Amended MOU, the Water Authority must first amend the Amended and Restated JPA, which in its current form does not allow for such FWA participation.

Following Board action regarding the Second Amended MOU, Water Authority staff developed proposed amendments to the Amended and Restated JPA that if incorporated would create the "Second Amended and Restated San Luis & Delta-Mendota Water Authority Joint Exercise of Powers Agreement" ("Second Amended and Restated JPA"). The proposed resolution and amendments (shown in redline) are provided as **Attachment 1** and **Attachment 2** to this memorandum.

Article 35 of the Amended and Restated JPA states that it may be amended upon written approval by a majority of all members of the Water Authority. The Water Authority has twenty-seven member agencies, thus, adoption of the Second Amended and Restated JPA is contingent upon the Water Authority receiving written approval from at least fourteen of its member agencies. Staff has provided a template memorandum and resolution for use by member agencies in taking the amendment to their home boards (**Attachment 3**), and requests that member agencies take action within thirty days.

Consistent with the proposed resolution, the Second Amended and Restated JPA will not become effective until: (a) execution of the Second Amended MOU, and (b) the Water Authority receives written approval from at least fourteen member agencies. Following the Second Amended and Restated JPA becoming effective, the Water Authority will comply with state filing requirements and will share a copy of the Second Amended and Restated JPA with member agencies and FWA.

Bylaws

In addition to Article V.A.1. of the Second Amended MOU discussed above, Article V.A.4. of the Second Amended MOU provides that FWA is entitled to one of six voting positions on a new Water Authority Planning Committee, with the right to vote on all matters of the committee. In

order to allow for FWA participation in Board meetings and for the development of the Planning Committee as described in Article V.A.1 and Article V.A.4 of the Second Amended MOU, the Board must first amend the Bylaws, which in their current form do not allow for such actions. The proposed resolution and amendments to the Bylaws (shown in redline) are provided as **Attachment 4** and **Attachment 5** to this memorandum.

Article 15 of the Second Amended and Restated JPA provides “the Board may adopt from time to time such bylaws, rules and regulations for the conducts of its affairs as may be required.” Article VIII of the Bylaws allows for the Bylaws to be amended by resolution of the Board, which requires a majority Board vote pursuant to Article III, Section 3.07 of the Bylaws.

Consistent with the proposed resolution, adoption of the amendments to the Bylaws will not occur the Second Amended and Restated JPA becomes effective.

BUDGET IMPLICATIONS

The budget is not impacted by the adoption of the proposed Second Amended and Restated JPA or amendments to the Bylaws.

ATTACHMENTS

1. Proposed Resolution Authorizing Adoption of the Second Amended and Restated JPA
2. Amended and Restated JPA with redlines showing amendments that if adopted would create the Second Amended and Restated JPA
3. Template Memorandum and Resolution for Member Agencies regarding JPA Amendment
4. Proposed Resolution Authorizing Amendments to the Bylaws
5. Bylaws with redlines showing proposed amendments

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

RESOLUTION NO. 2024-

RESOLUTION AUTHORIZING ADOPTION OF THE SECOND AMENDED AND RESTATED SAN LUIS & DELTA-MENDOTA WATER AUTHORITY JOINT EXERCISE OF POWERS AGREEMENT AND ACTIONS RELATED THERETO

WHEREAS, by Resolution 1998-159 the Board of Directors of the San Luis & Delta-Mendota Water Authority (the “Board” and the “Water Authority,” respectively) authorized execution of that certain Memorandum of Understanding Between Friant Water Users Authority and the Water Authority Relating to Allocation, Collection and Payment of Operation, Maintenance & Replacement Costs for Water Delivered Through Certain Central Valley Project Facilities (the “MOU”); and

WHEREAS, by Resolution 2003-2017 the Board of the Water Authority authorized execution of that certain “First Amended and Restated Memorandum of Understanding Between Friant Water Users Authority and San Luis & Delta-Mendota Water Authority Relating to Allocation, Collection and Payment of Operation, Maintenance & Replacement Costs for Water Delivered Through Certain Central Valley Project Facilities,” (“First Amended MOU”) following amendment of the Agreement for the Transfer of the Operation, Maintenance and Replacement, and Certain Financial and Administrative Activities of the Delta-Mendota Canal and Related Works (the “Transfer Agreement”); and

WHEREAS, in 2004, the Friant Water Users Authority assigned to the Friant Water Authority (“FWA”) all of its right, title, and interest in the Friant Transfer Agreement, and FWA thereafter stood in the shoes of Friant Water Users Authority as it relates to the First Amended MOU; and

WHEREAS, following facilitated negotiations, in January 2024 FWA and the Water Authority reached agreement in principle and executed a Memorandum of Agreement that confirmed the general terms of proposed amendments to the First Amended MOU, settlement terms regarding the disputes, and amendments to other Water Authority and FWA governing documents; and

WHEREAS, following execution of the Memorandum of Agreement, FWA and the Water Authority drafted amendments to the First Amended MOU and its four exhibits in order to develop the “Second Amended and Restated Memorandum of Understanding Between Friant Water Authority and San Luis & Delta-Mendota Water Authority Relating to Allocation, Collection and Payment of Operation, Maintenance and Replacement Costs for Water Delivered Through Certain Central Valley Project Facilities” (the “Second Amended MOU”); and

WHEREAS, by Resolution 2024-527 the Board authorized execution of the Second Amended MOU, but indicated that the Second Amended MOU would not become effective until (a) the completion of a sixty-day review of the “2024 SLDMWA OM&R Cost Recovery Plan,” Exhibit B to the Second Amended MOU, by all parties with payment obligations under Article 12

of the Water Authority's Transfer Agreement, and (b) submittal to Reclamation for review and comment; and

WHEREAS, Article V.A.1. of the Second Amended MOU provides that FWA is entitled to representation on the Board in that a FWA representative may vote on any action item funded in whole or in part, from any OM&R fund or Reserves to which Friant Division Contractors have or will have contributed; and

WHEREAS, in order to allow for FWA participation in Board meetings as described in Article V.A.1 of the Second Amended MOU, the Water Authority must first amend the "Amended and Restated San Luis & Delta-Mendota Water Authority Joint Exercise of Powers Agreement" dated January 1, 1992 ("Amended and Restated JPA"), which in its current form does not allow for such FWA participation; and

WHEREAS, following Board action regarding the Second Amended MOU, Water Authority staff developed proposed amendments to the Amended and Restated JPA that if incorporated would create the "Second Amended and Restated San Luis & Delta-Mendota Water Authority Joint Exercise of Powers Agreement" ("Second Amended and Restated JPA"); and

WHEREAS, Article 35 of the Amended and Restated JPA states that it may be amended upon written approval by a majority of all members of the Water Authority; and

WHEREAS, the Board has reviewed and considered the proposed Second Amended and Restated JPA.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS, THAT:

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

Section 2. The Board has reviewed and considered the Second Amended and Restated JPA, including the proposed amendments to the Amended and Restated JPA allowing for FWA representation on the Board, commensurate amendments to quorum and voting, and certain other non-substantive amendments, and hereby authorizes the adoption of the proposed Second Amended and Restated JPA.

Section 3. The authorization conferred by this Resolution shall be contingent upon the (a) the Second Amended MOU becoming effective, and (b) receipt of written approval of the proposed Second Amended and Restated JPA from a majority of the twenty-seven Water Authority members.

Section 4. In the event the contingencies described in Section 3 occur, the proposed Second Amended and Restated JPA shall be adopted with no further Board action required.

Section 5. In the event one or both contingencies described in Section 3 fail to occur, the authorization conferred by this Resolution is revoked *ab initio*, and any documents executed by the Water Authority in reliance upon this Resolution or the proposed Second Amended and Restated JPA shall have no binding force or effect.

Section 6. Executive Director Federico Barajas is further authorized and directed to take all such additional actions, including without limitation, the filing of a notice of amendment with the office of the Secretary of State, as may be necessary or convenient to carry out the intention of this Resolution and the terms of the Second Amended and Restated JPA approved hereby.

PASSED, APPROVED AND ADOPTED this [REDACTED] day of May, 2024, by the Board of Directors of the San Luis & Delta-Mendota Water Authority.

Cannon Michael, Chair

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

Attest:

Federico Barajas, Secretary

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I hereby certify that the foregoing Resolution No. 2024- was duly and regularly adopted by the Board of Directors of the San Luis & Delta-Mendota Water Authority at the meeting thereof held on the ____th day of May, 2024.

Federico Barajas, Secretary

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY



Second Amended and Restated Joint Exercise of Powers Agreement

Adopted: July 1, 1990

First Amendment: January 1, 1992

Second Amendment: [REDACTED], 2024

**SECOND AMENDED AND RESTATED
JOINT EXERCISE OF POWERS AGREEMENT
SAN LUIS & DELTA-MENDOTA WATER AUTHORITY**

This agreement is made and entered into as of the [REDACTED] day of [REDACTED], 2024, by and between the parties on the attached Exhibit A, and amends and restates the First Amended and Restated Joint Exercise of Powers Agreement made and entered into by certain of the parties on the attached Exhibit A as of the 1st day of January, 1992.

RECITALS

The parties to this Agreement each have and possess the power to acquire, construct, operate and maintain water and drainage works and facilities for the development and use of water resources and water rights including, without limitation, works and facilities to divert, store, pump, treat and deliver water for beneficial uses.

These activities call best be achieved through the cooperative action of the Members operating through a joint exercise of powers authority. The Members desire to create a joint exercise of powers authority to exercise those powers in common and to finance, develop, operate and maintain water supply water and drainage facilities and develop water supplies for their mutual benefit.

Each of the Members is authorized to contract with each other for the joint exercise of any common power under Article 1, Chapter 5, Division 7, Title 1 of the Government Code (commencing with section 6500).

COVENANTS

In consideration of the mutual promises and covenants herein contained, the Members agree as follows:

PURPOSE AND POWERS

1. **Definitions.** For the purpose of this Agreement, the meaning of the terms hereinafter set forth shall be the following:

a. “Agreement” means this Amended and Restated Joint Exercise of Powers Agreement.

b. “Authority” means the “San Luis & Delta-Mendota Water Authority” formed pursuant to this Agreement.

c. “Board” or “Board of Directors” means the governing body of the Authority as established in this Agreement.

d. “Budget” means the approved budget applicable to the expenses of the Authority.

e. “Director” or “Directors” means a duly appointed member or members of the Board of Directors.

f. “Facility” or “Facilities” means any works financed, constructed, acquired, repaired, rehabilitated, operated or maintained by the Authority, including without limitation, dams, watercourses, drainage works, conduits, ditches, canals, reservoirs, tanks, pumping plants, treatment plants, hydroelectric generation, cogeneration and transmission facilities, buildings, and other structures utilized for the diversion, pumping, conveyance, control, storage, groundwater recharge, treatment, management, drainage and delivery of waters for beneficial use by Parties.

g. “Fiscal Year” means March 1 through February 28(29) or such other period as the Board of Directors shall determine.

h. “FWA Representative” means a duly appointed representative or alternate of the Friant Water Authority (“FWA”).

h.i. “Member” or “Members” means one or more of the public entities that become a signatory to this Agreement, accepting the rights, responsibilities and obligations of the Authority hereunder, including any public entity executing an addendum of the original Agreement as hereinafter provided.

i. “Project Agreement” means an agreement between and among the Authority and any of its Members or other entities (including associate members) to provide for undertaking and sharing in the cost and benefits of any authorized activity of the Authority in connection with the acquisition of capital facilities or the issuance of debt.

2. **Authority Created.** There is hereby created a public entity to be known as the “San Luis & Delta-Mendota Water Authority.” The Authority is formed by this Agreement pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California. The Authority shall be a public entity separate from the Members hereto.

3. **Boundaries of the Authority.** The geographic boundaries of the Authority shall be coextensive with those of the Members.

4. **Purpose of the Agreement; Common Powers To Be Exercised.** Each Member has in common the power to study, plan for, develop, finance, acquire, construct, maintain, repair, manage, operate and control Facilities either alone or in cooperation with the United States, the State of California, or other public or private entities and provide information on water supply, water distribution, operation and management and drainage problems affecting the Members and, preserve and protect the rights and benefits of the Members in the Central Valley Project. The purpose of this Agreement is to jointly exercise some or all of the foregoing common powers, as appropriate, and for the exercise of such additional powers as may be authorized by law in the manner hereinafter set forth.

5. **Existing Facilities.** Notwithstanding anything to the contrary, the Authority shall not undertake the acquisition, operation or maintenance of any Facilities within any Member’s boundaries and shall not perform any functions currently performed by or within the powers of a Member within such Member’s boundaries, absent written consent of the Member’s governing body.

6. **Powers.** The Authority, and more specifically those Members who elect to participate in the particular project pursuant to a Project Agreement in accordance with paragraph 21, shall have the power in its own name to do any of the following:

a. To exercise the common powers of its Members to finance, develop, operate, and maintain Facilities.

b. To exercise the common powers of its Members in studying, planning and implementing ways and means to provide a reasonable and financially feasible program and plan of operation for obtaining water supplies for beneficial use within the boundaries of the Members.

c. To exercise the common powers of its Members to develop, collect, provide and disseminate to the Members, and others, including but not limited to legislative, administrative

and judicial bodies, as well as the public generally, information on water development, conservation, distribution, utilization and drainage and problems incidental thereto affecting the Members, to preserve and protect the contractual rights of the Members and to take such other actions as are incidental, necessary and convenient to such purposes.

d. To exercise the common powers of its members with respect to the management and protection of surface and groundwater supplies within the boundaries of the Authority.

e. To make and enter contracts necessary to the full exercise of its powers.

f. To contract for the services of engineers, attorneys, planners, financial consultants, and separate and apart therefrom, to employ such other persons as it deems necessary.

g. To acquire, construct, manage, maintain, operate and replace any Facilities.

h. To enter into agreements with the United States of America, the State of California or any other public or private entity for the provision of all or a portion of the local contribution which may be required for the construction, operation or maintenance of any Facilities.

i. To acquire, by eminent domain or otherwise, and to hold and dispose of property necessary to the full exercise of its powers.

j. To incur debts, liabilities or obligations subject to limitations herein set forth.

k. To issue bonds, notes and other indebtedness, and to enter into leases, installment sale and installment purchase contracts, all as hereinafter provided.

l. To sue and be sued in its own name

m. To apply for, accept and receive state, federal or local licenses, permits, grants, loans or other aid from any agency of the United States of America, the State of California or other public or private entity necessary for the Authority's full exercise of its powers.

n. To perform all acts necessary or proper to carry out fully the purposes of this Agreement.

o. To the extent not herein specifically provided for, to exercise any powers in the manner and according to methods provided under the laws applicable to San Luis Water District.

ORGANIZATION

7. **Membership.** The Members of the Authority shall be each public entity which has executed, or hereafter shall execute, this Agreement; or any addenda, amendment or supplement thereto and which has not, pursuant to the provisions hereof, withdrawn therefrom.

8. **Associate Members.** A mutual water company, public utility or other nonpublic entity which has the authority to exercise all or a substantial portion of the powers set forth in Paragraph 4, may become an associate member of the Authority. The terms and conditions of such associate membership and assignment to Division shall be set forth in an agreement between the Authority and the associate member.

9. **Governing Body of the Authority.**

a. The business of the Authority shall be conducted by a Board of Directors consisting of nineteen (19) directors and the FWA Representative described in subsection (f).

b. For purposes of electing directors, Members of the Authority shall be separated into five divisions as set forth in Exhibit B attached hereto, such divisions to be known as Division 1, Division 2, Division 3, Division 4 and Division 5. Members included in each Division shall select four Directors and Alternate Directors except Division 5 which shall select three Directors and Alternate Directors. Each Director and alternate Director shall be appointed or selected by the Members of the respective Division in accordance with paragraph (c) below. Each Director and Alternate Director shall be a member of a governing body of a Member, shall be on the staff of or a permanent consultant of the Member or shall otherwise be formally appointed by the governing body of the Member. One alternate director shall be selected for each Director. The names of all Directors and alternates shall be on file with the Board. An alternate shall assume all rights of the Director representing the appointing Member and shall have the authority to act in the absence of a Director or in the event that a Director has a conflict of interest which precludes participation by the Director in any decision-making process of the Authority.

c. Directors and Alternate Directors shall be selected by Members of each Division, in accordance with Section 16 hereof, as follows:

Division 1: Division 1 shall select four Directors and four Alternate Directors by a vote of the Members in Division 1 with each Member casting one vote per acre foot

of water contracted from the Central Valley Project for each position to be filled. No more than one Director and Alternate Director may represent a single Member.

Division 2: Division 2 shall select four Directors and four Alternate Directors by a vote of the Members in Division 2 with each member casting one vote per acre foot of water contracted from the Central Valley Project for each position to be filled. No more than two Directors and Alternate Directors may represent a single member.

Division 3: Division 3 shall select four Directors and four Alternate Directors by a vote of the Members in Division 3 with each member casting one vote per acre foot of water contracted from the Central Valley Project for each position to be filled. No more than two Directors and Alternate Directors may represent a single member.

Division 4: Division 4 shall select four Directors and four Alternate Directors by a vote of the Members in Division 4 with each member casting one vote per acre foot of water contracted from the Central Valley Project for each position to be filled. No more than two Directors and Alternate Directors may represent a single member.

Division 5: Division 5 shall select three Directors and three Alternate Directors by a vote of the Members in Division 5 with each member casting one vote per acre foot of water contracted from the Central Valley Project for each position to be filled. No more than one Director and Alternate Director may represent a single Member.

d. ~~The Authority shall on February 15, 1992 circulate a notice of available Director or Alternate Director positions on the Board to the Members of each Division requesting each member to name qualified individuals willing to serve in such position on or before March 1, 1992. Upon the conclusion of such 15 day period the Authority shall promptly prepare and circulate to Members within each Division a ballot including the slate of potential Directors and Alternates named for such Division and determine a voting date of April 2, 1992.~~ In the event of

a vacancy on the Board, the Members of a Division shall fill such vacancy by election according to reasonable procedures determined by the Authority. Any Member failing to timely act shall forfeit the right to vote on such ballot. Each Director and alternate shall hold office from the first meeting of the Board after his or her election by the Division he or she represents until a successor is selected by the Division and the Division so notifies the Authority.

e. _____ A Director may receive such compensation from the Authority for services as may from time to time be established by the Board. In addition, a Director may be reimbursed for expenses incurred by such Director in the conduct of the Authority's business.

e.f. Friant Water Authority Representative and Alternate. The Authority and the Friant Water Authority ("FWA") are parties to that certain Second Amended and Restated Memorandum of Understanding Relating to Allocation, Collection, and Payment of Operation, Maintenance, and Replacement Costs for Water Delivered Through Certain Central Valley Project Facilities dated [DATE], 2024 ("Second Amended MOU"). The Second Amended MOU states that FWA will be entitled to representation on the Authority Board of Directors, in that the FWA Representative may vote on any action item funded, in whole or in part, from any OM&R fund or Reserves to which Friant Division Contractors have or will have contributed to the Authority. As such, FWA may designate a FWA director, employee, or consultant to serve as the FWA Representative and the FWA Representative Alternate on the Board. The FWA Representative may participate in discussion and vote on any Board agenda item, including closed session items, that the presiding officer determines is funded, in whole or in part, from any operation, maintenance, and replacement ("OM&R") fund or Reserves to which Friant Division Contractors have contributed. The FWA Representative will not participate in discussion or vote on Board agenda items that are not so funded or where the Authority makes express findings and provides appropriate documentation showing that the Authority will not use such funds, in whole or in part. The FWA Representative will not be counted for purposes of determining a quorum or the number of votes required to approve a Board agenda item that is not funded by Friant Division Contractors as described above. The FWA Representative's vote will have the same weight as one Director's vote. The FWA Representative will maintain his or her position relative to the Authority Board until a successor is selected by FWA and FWA so notifies the Authority.

10. **Principal Office.** The principal office of the Authority shall be established by the Board. The Board is hereby granted full power and authority to change its principal office from one location to another in the boundaries of the Authority. Any change shall be noted by the secretary, but shall not be considered an amendment to this Agreement.

11. **Meetings.** The Board shall meet at the Authority's principal office or at such other place as may be designated by the Board. The time and place of regular meetings of the Board shall be determined by resolution adopted by the Board; a copy of such resolution shall be furnished to each Member and to FWA. Regular, adjourned and special meetings shall be called and held in the manner as provided in Chapter 9, Division 2, Title 5 of the Government Code of the State of California, the "Brown Act" (commencing at Section 54950).

12. **Quorum and Voting.** Directors representing at least a majority of the Board of Directors shall constitute a quorum for the purposes of transacting the Authority's business. Except as otherwise provided herein or by law, the vote of a majority of all the Directors present shall be required for the Authority to take action, except that the Authority shall not endorse or otherwise support any legislation or participate in any lawsuits, or administrative proceedings or other similar proceedings (except to defend the Authority) except upon the vote of 85% of the Directors present. For agenda items on which the FWA Representative may vote, the majority vote required for the Authority to take action is the majority of the group comprised of the Directors present and the FWA Representative, if present. Accordingly, the number of votes required to reach a majority may be higher for agenda items on which the FWA Representative may vote.

~~12.~~13. **Powers and Limitations Thereon.** All the power and authority of the Authority will be exercised by the Board, subject however, to the rights reserved by the Members as herein set forth; provided however, that the Board may delegate such powers and authority to the Executive Director as the Board may determine by motion, resolution or ordinance. The Board may also appoint and delegate such powers and authority to advisory or subcommittees as the Board may determine by motion, resolution or ordinance.

~~13.~~14. **Minutes.** The secretary of the Authority shall cause to be kept minutes of all meetings of the Board, and upon request, shall cause a copy of the minutes to be forwarded to each Director and to each of the Members and Associate Members hereto.

14.15. Rules. The Board may adopt from time to time such bylaws, rules and regulations for the conduct of its affairs as may be required.

15.16. Vote or Assent of Members. The vote, assent, or approval of the Members in any matter requiring such vote, assent or approval hereunder, shall be evidenced by a certified copy of the resolution of the governing board of such Member filed with the Authority.

16.17. Officers. There shall be selected from the membership of the Board, a chair~~man~~ who shall be the presiding officer at all board meetings, and a vice chair~~man~~ who shall serve in the absence of the Chair~~man~~. The Chair~~man~~ and Vice Chair~~man~~ shall have the right to vote on all matters coming before the Board. In the case of a tie vote of the Board on any matter coming before it, the vote shall be deemed to have failed. The Board shall appoint a secretary who may be but is not required to be a director; the secretary shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority. The Board shall appoint a treasurer of the Authority who shall be the depository of funds and shall have custody of all money of the Authority, from whatever source. The treasurer shall be bonded in accordance with Government Code Section 6505.1, perform the duties as specified in and in accordance with Government Code Section 6505.5, and shall draw all warrants and pay demands against the Authority approved by the Board. In addition, the Board shall have the power to appoint such additional officers as it deems necessary.

The treasurer ~~and auditor~~ shall serve at the pleasure of the Board. The chair~~man~~, vice chair~~man~~, and secretary shall hold office for a period of one year commencing the first meeting of each Fiscal Year. An office shall be declared vacant if the person serving dies, resigns, or is removed by a Division as a representative of the Division, or if the Member represented by the Director withdraws from this Agreement pursuant to any of the provisions hereof. The remaining Board shall select a successor officer to serve for the balance of the leaving officer's term. The public officer or officers or persons who have charge of any funds or securities of the Authority shall be bonded and the amount of their bond shall be designated in the applicable budget and thus fixed.

All of the privileges and immunities from liability, exemptions from laws, ordinances and rules which apply to the activity of officers, agents, or employees of any of the Members when performing their respective functions shall apply to them to the same degree and extent while

engaged in the performance of any of the functions and other duties under this Agreement. None of the officers, agents, or employees appointed by the Board shall be deemed by reason of their employment by the Board to be employed by any of the Members or by reason of their employment by the Board to be subject to any of the requirements of such Members.

~~17.~~18. **Executive Director.** The Executive Director of the Authority shall be the chief administrative officer of the Authority, shall serve at the pleasure of the Board of Directors, and shall be responsible to the Board for the proper and efficient administration of the Authority as is or hereafter may be placed in his charge, or under his jurisdiction or control, pursuant to the provisions of this Agreement, or of any motion, ordinance, resolution or order of the Board. In addition to other powers and duties herein provided and notwithstanding paragraph 13 hereof, the Executive Director shall have the power:

- a. under policy direction of the Board, to plan, organize and direct all Authority activities;
- b. to appoint and to remove all Authority employees, all of whom shall serve pursuant to such terms and conditions as may be established by the Board or Executive Director, as appropriate, except as is otherwise provided by law or by this Agreement;
- c. to authorize expenditures within the designations and limitations of the approved Budget; and
- d. to make recommendations to and requests of the Board concerning all of the matters and things which are to be performed, done or carried out by said Board.

PLANNING

~~18.~~19. **Planning Policy.** In keeping with the purpose of this Agreement, the Members hereby authorize and direct the Board to undertake and/or participate in such studies and planning as necessary to provide for the purposes set forth in the recitals hereto and in Paragraph 4, as well as the exercise of the powers set forth in Paragraph 6. The studies and planning shall consider the financing methods for such proposals, as well as the allocation of costs among the Parties.

PROJECTS

~~19.~~20. **Projects.** Subject to Paragraph 21 hereof, the Authority's projects are intended to consist of developing, designing, rehabilitating, acquiring, constructing, financing or operating and

maintaining Facilities (including sharing in the cost of federal, state or local projects). The Authority may undertake the development, design, construction, rehabilitation, acquisition or funding of all or any portion of such projects on, its own or in conjunction and cooperation with the United States, the State of California, or any other public or private entity. The Authority may also undertake such other projects as are consistent with the purposes set forth in the recitals and in Paragraph 4, as well as the exercise of the powers set forth in Paragraph 6.

20.21. Project Agreement. Prior to undertaking a project, the Members electing to participate in the project shall enter into a Project Agreement. Thereafter, all assets, rights, benefits and obligations attributable to the project shall be assets, rights, benefits and obligations of those Members which have entered into the Project Agreement. Any debts, liabilities, obligations or indebtedness incurred by the Authority in regard to a particular project shall be the debts, liabilities, obligations or indebtedness of the Members who have executed the respective Project Agreement with respect thereto in accordance with the terms of such Project Agreement and shall not be the debts liabilities, obligations and indebtedness of those Members who have not executed the Project Agreement with respect thereto.

BUDGETS AND PAYMENTS

21.22. Budget. Within 90 days after the first meeting of the Board, and thereafter prior to the commencement of each fiscal year, the Board shall adopt a Budget for the Authority for the ensuing fiscal year.

22.23. Contributions for Operating Expenses:

a. Each Member shall make an initial contribution to pay operating expenses in an amount to be determined by the Board, and, thereafter, contributions as determined by the Board as required to fund the Budget.

b. It is understood that upon the formation of the Authority, the Authority shall reimburse the Members for those costs incurred by them for the formation of the Authority.

c. Contributions or advances of public funds and of personnel, supplies, equipment or property may be made to the Authority by any Member for any of the purposes of this Agreement, with the consent of the Authority. Any such advance may be made subject to repayment as agreed to by the Member and the Authority.

d. All operating costs of the Authority shall be allocated among Members in accordance with agreements entered into by the Authority and Members and policies established by the Authority consistent therewith, all to be set forth in a schedule to be attached to each budget. Only the Members who enter into a Project Agreement shall be responsible for paying the costs of the Authority allocable to such Project Agreement. The Authority may enter into activity agreements or other agreements to pay the costs of activities which benefit less than all of the Members which allocate such costs to the Members who execute such agreements.

e. It is understood that the Board may arrange for the payment of the expenses of the Authority through some other source, including but not limited to state or federal grants or loans. The Authority may not assess a Member directly for the costs for the operation and maintenance of Facilities, for the payment of administrative expenses or for the satisfaction of any liabilities imposed against the Authority in connection with such grants or loans without such Member's consent as evidenced by an Administration Agreement, activity agreement, Project Agreement or other written consent.

f. In accordance with Government Code Section 6512.1, repayment or return to the Members of all or part of any contributions made by the Members may be directed by the Board at such time, and upon such terms as may be consistent with any indebtedness incurred by the Authority. The Authority shall hold title to all funds, property and Facilities acquired by it during the term of this Agreement, unless a Project Agreement provides otherwise.

FINANCING

23-24. Indebtedness. The Board shall have the power and authority to issue bonds, notes and other indebtedness, and to execute leases, installment sale contracts or installment purchase contracts for the purposes and in accordance with procedures and requirements as permitted by law.

ACCOUNTING AND AUDITS

24-25. Accounting Procedures. Full books and accounts shall be maintained for the Authority in accordance with practices established by, or consistent with, those utilized by the Controller of the state of California for like public entities. In particular, the Authority's treasurer

shall comply strictly with requirements of the statute governing joint powers agencies, Chapter 5, Division 7, Title 1 of the Government Code commencing at Section 6500.

25-26. Audit. The records and accounts of the Authority shall be audited annually and copies of such audit reports shall be filed with the State Controller and each Member within six months of the end of the fiscal year under examination.

PROPERTY RIGHTS

26-27. Authority Facilities. All Facilities constructed or acquired by the Authority shall be held in the name of the Authority for the benefit of the membership of the Authority in accordance with the terms of this Agreement, unless a Project Agreement provides otherwise.

27-28. Liabilities. The debts, liabilities and obligations of the Authority shall be the debts, liabilities or obligations of the Authority alone and not of the Members to this Agreement, except as may otherwise be expressly set forth in a Project Agreement or activity agreement or as provided in Paragraph 23.

LIABILITY OF BOARD

28-29. Except as otherwise provided in this Agreement, the funds of the Authority shall be used to defend, indemnify and hold harmless the Authority and any Director and the FWA Representative for their actions taken within the scope of the authority of the Authority. Nothing herein shall limit the right of the Authority to purchase insurance to provide such coverage as is hereinabove set forth.

RESCISSION, TERMINATION, WITHDRAWAL, ASSIGNMENT

29-30. Term. The Authority shall continue until this Agreement is rescinded or terminated as herein provided.

30-31. Rescission or Termination. This Agreement may be rescinded and the Authority terminated by unanimous written consent of the Members, except during the outstanding term of any Authority indebtedness. Nothing in this Agreement shall prevent the Members from entering into other joint exercise of power agreements.

31-32. Disposition of Property Upon Termination. Upon termination of this Agreement, any surplus funds on hand shall be returned to the then Members in proportion to the

contributions made. The Board shall first offer any Facilities, rights and interests of the Authority for sale to the Members for good and adequate consideration. If no such sale is consummated, the Board shall offer such Facilities, rights and interests of the Authority for sale to any governmental agency, or other entity for good and adequate consideration. The net proceeds from any sale shall be distributed among the Members in proportion to the contributions made. If no such sale is consummated, then the Facilities, rights and interests of the Authority shall be allocated to the Members in the same manner as the allocation of the net proceeds from a sale, unless otherwise agreed to by the Members.

32.33. Withdrawal.

a. A Member may unilaterally withdraw from this Agreement without requiring termination of this Agreement, effective upon sixty days' written notice to the, Authority, provided no indebtedness has been incurred under any Project Agreement to which the Member is a participant, and further provided the withdrawing Member pays or agrees to pay its share of all debts, liabilities and obligations of the Authority incurred prior to the effective date of such withdrawal other than debts, liabilities and obligations incurred pursuant to Project Agreements or activity agreements to which the Member is not a participant.

b. In the event the withdrawing Member has any rights in any Facilities or obligations to the Authority, the Member cannot sell, lease or transfer such rights or be relieved of its obligations, except in accordance with a written agreement executed by it and the Authority. The Authority may not sell, lease, transfer or use any rights of a Member who has withdrawn without first obtaining the written consent of the withdrawing Member.

c. No refund or repayment of the initial commitment of funds shall be made to a Member ceasing to be a Member to this Agreement whether pursuant to this Section or any other Section of this Agreement. The refund or repayment of any other contribution shall be made in accordance with the terms and conditions upon which the contribution was made, or other agreement of the Authority and withdrawing Member.

33.34. Admission of New Members. It is recognized that entities, other than the original Members and Associate Members, may wish to participate in the Authority. Additional entities may become Members or Associate Members of the Authority upon such terms and conditions as

provided by the Board upon affirmative vote of a majority of all the Directors of the Authority. Upon admission, the Board shall assign a new Member to a division.

34.35. Amendments. This Agreement may be amended upon written approval of any amendment by a majority of all Members of the Authority.

35.36. Assignment; Binding on Successors. Except as otherwise provided in this Agreement, the rights and duties of the Members may not be assigned or delegated without the written consent of all other Members. Any attempt to assign or delegate such rights or duties in contravention of this Agreement shall be null and void. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities and other obligations of the Authority then in effect. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Members hereto.

36.37. Notice. Any notice or instrument required to be given or delivered hereunder shall be delivered by depositing the same in any United States Post Office, registered or certified, postage prepaid, addressed to the addresses of the Members shall be deemed to have been received by the Member to whom the same is addressed at the expiration of 72 hours after deposit of the same in the United States Post Office.

37.38. Counterparts. This Agreement may be executed by the Members in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

38.39. Choice of Law. This Agreement shall be governed by the laws of the state of California.

39.40. 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 Members that the remainder of the Agreement shall not be affected thereby.

40.41. Headings. The titles of paragraphs of this Agreement are for convenience only, and no presumption or implication of the intent of the parties as to the construction of this Agreement shall be drawn therefrom.

IN WITNESS WHEREOF, the Members have caused this Agreement to be executed as of the day and year first above-written.

DATE: _____ DISTRICT

By: _____

ATTEST:

APPROVED AS TO FORM:

DRAFT

EXHIBIT A

SCHEDULE OF PARTIES

(Updated XX/XX/2024)

1. Banta-Carbona Irrigation District
2. Broadview Water District
3. Byron Bethany Irrigation District (CVPSA)
4. Central California Irrigation District
5. City of Tracy
Columbia Canal Company (a Friend)
6. Del Puerto Water District
7. Eagle Field Water District
8. Firebaugh Canal Water District
9. Fresno Slough Water District
10. Grassland Water District
11. Henry Miller Reclamation District #2131
12. James Irrigation District
13. Laguna Water District
14. Mercy Springs Water District
15. Oro Loma Water District
16. Pacheco Water District
17. Panoche Water District
18. Patterson Irrigation District
19. Pleasant Valley Water District
20. Reclamation District 1606
21. San Benito County Water District
22. San Luis Water District
23. Santa Clara Valley Water District
24. Tranquillity Irrigation District
25. Turner Island Water District
26. West Stanislaus Irrigation District
27. Westlands Water District

EXHIBIT B

SCHEDULE OF DIVISION MEMBERSHIP

(Updated **XX/XX/2024**)

DIVISION I

1. Banta-Carbona Irrigation District
2. Byron Bethany Irrigation District
3. City of Tracy
4. Del Puerto Water District
5. Patterson Irrigation District
6. West Stanislaus Irrigation District

DIVISION II

1. Panoche Water District
2. Pleasant Valley Water District
3. San Luis Water District
4. Westlands Water District

DIVISION III

1. Central California Irrigation District
2. Firebaugh Canal Water District
3. Grassland Water District
4. Henry Miller Reclamation District 2131
Columbia Canal Company (Friend)

DIVISION IV

1. Santa Clara Valley Water District
2. San Benito County Water District

DIVISION V

1. Broadview Water District
2. Eagle Field Water District
3. Fresno Slough Water District
4. James Irrigation District
5. Laguna Water District
6. Mercy Springs Water District
7. Oro Loma Water District
8. Pacheco Water District

9. Reclamation District 1606
10. Tranquillity Irrigation District
11. Turner Island Water District

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TEMPLATE MEMORANDUM REGARDING JPA AMENDMENT

BACKGROUND

The [District Name] is a member of the San Luis & Delta-Mendota Water Authority (“Water Authority”). Following facilitated negotiations, the Water Authority and Friant Water Authority (“FWA”) executed a Memorandum of Agreement to settle disputes between the parties. The Memorandum of Agreement led to the Water Authority, in April 2024, authorizing the execution of the “Second Amended and Restated Memorandum of Understanding Between Friant Water Authority and San Luis & Delta-Mendota Water Authority Relating to Allocation, Collection and Payment of Operation, Maintenance and Replacement Costs for Water Delivered Through Certain Central Valley Project Facilities” (the “Second Amended MOU”). The Second Amended MOU will be executed and become effective following (a) the completion of a sixty-day review of the “2024 SLDMWA OM&R Cost Recovery Plan,” Exhibit B to the Second Amended MOU, by all parties with payment obligations under Article 12 of the Water Authority’s Transfer Agreement, and (b) submittal to Reclamation for review and comment.

The Second Amended MOU contains provisions that necessitate amendments to the “Amended and Restated San Luis & Delta-Mendota Water Authority Joint Exercise of Powers Agreement” dated January 1, 1992 (“Amended and Restated JPA”). At its regular Board meeting on May 9, 2024, the Water Authority adopted Resolution No. 2024-___ “Resolution Authorizing Adoption of the Second Amended and Restated San Luis & Delta-Mendota Water Authority Joint Exercise of Powers Agreement and Actions Related Thereto,” attached as **Attachment 1** to this memorandum.

The amendments to the Water Authority’s Amended and Restated JPA will not become effective until: (a) the Second Amended MOU becomes effective, and (b) the Water Authority receives written approval from a majority of the twenty-seven Water Authority members. Accordingly, the Water Authority seeks written approval of the amendments to the Amended and Restated JPA in the form of an adopted resolution from its members.

SUMMARY OF AMENDMENTS TO THE WATER AUTHORITY’S AMENDED AND RESTATED JPA

AMENDED AND RESTATED JPA

Article V.A.1. of the Second Amended MOU provides that the FWA is entitled to representation on the Water Authority’s Board in that a FWA representative may vote on any action item funded in whole or in part, from any operation, maintenance, and replacement (“OM&R”) fund or reserves to which Friant Division Contractors have or will have contributed. In order to allow for FWA participation in Board meetings as described in Article V.A.1 of the Second Amended MOU, the Water Authority must amend the Amended and Restated JPA, which in its current form does not allow for such FWA participation.

On May 9, 2024, by Resolution 2024-___ (**Attachment 1**), the Water Authority Board approved amendments to the Amended and Restated JPA that, if incorporated, would create the “Second

Amended and Restated San Luis & Delta-Mendota Water Authority Joint Exercise of Powers Agreement” (“Second Amended and Restated JPA”). The approved amendments to the Amended and Restated JPA are shown in redline in **Attachment 2** to this memorandum.

Article 35 of the Amended and Restated JPA states that it may be amended upon written approval by a majority of all members of the Water Authority. The Water Authority has twenty-seven member agencies, thus, adoption of the Second Amended and Restated JPA is contingent upon the Water Authority receiving written approval from at least fourteen of its member agencies.

Consistent with the proposed resolution, the Second Amended and Restated JPA will not become effective until: (a) the Second Amended MOU becomes effective, and (b) the Water Authority receives written approval from at least fourteen member agencies. Following the Second Amended and Restated JPA becoming effective, the Water Authority will comply with state filing requirements and will share a copy of the Second Amended and Restated JPA with member agencies and FWA.

ISSUE FOR DECISION

Whether to adopt Resolution No. [Member/District’s Resolution] providing written approval of the amendments to the Water Authority’s Amended and Restated JPA.

RECOMMENDATION

Staff recommends adopting the proposed resolution.

BUDGET IMPLICATIONS

The budget is not impacted by the adoption of the proposed resolution.

ATTACHMENTS

1. Water Authority Resolution No. 2024-___ “Resolution Authorizing Adoption of the Second Amended and Restated San Luis & Delta-Mendota Water Authority Joint Exercise of Powers Agreement and Actions Related Thereto”
2. Amended and Restated JPA with redlines showing amendments that, if approved by a majority of the Water Authority members, would create the Second Amended and Restated JPA

[DISTRICT NAME]

RESOLUTION NO. [REDACTED]

**RESOLUTION APPROVING THE SECOND AMENDED AND RESTATED SAN LUIS
& DELTA-MENDOTA WATER AUTHORITY JOINT EXERCISE OF POWERS
AGREEMENT AND ACTIONS RELATED THERETO**

WHEREAS, [District name] is a member of the San Luis & Delta-Mendota Water Authority (“Water Authority”) and party to the “Amended and Restated San Luis & Delta-Mendota Water Authority Joint Exercise of Powers Agreement” dated January 1, 1992 (“Amended and Restated JPA”); and

WHEREAS, to settle disputes with the Friant Water Authority and implement a Memorandum of Agreement reached with FWA, the Water Authority Board desires to amend the Water Authority’s Amended and Restated JPA; and

WHEREAS, on May 16, 2024, the Water Authority Board approved Resolution 2024-[REDACTED], which authorized the adoption of proposed amendments to the Amended and Restated JPA that, if incorporated, would create the “Second Amended and Restated San Luis & Delta-Mendota Water Authority Joint Exercise of Powers Agreement” (“Second Amended and Restated JPA”); and

WHEREAS, pursuant to Article 35 of the Amended and Restated JPA, in order to amend the Amended and Restated JPA, a majority of all members of the Water Authority must give their written approval of the amendments; and

WHEREAS, the [District’s] Board of Directors has reviewed and considered the proposed Second Amended and Restated JPA.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS, THAT:

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

Section 2. The Board has reviewed and considered the Second Amended and Restated JPA, including the proposed amendments to the Amended and Restated JPA allowing for FWA representation on the Board, commensurate amendments to quorum and voting, and certain other non-substantive amendments, and hereby approves the Second Amended and Restated JPA.

PASSED, APPROVED AND ADOPTED this [REDACTED] day of [May/June] 2024, by the Board of Directors of the [District Name].

[Name], [Chair/President]

[DISTRICT NAME]

Attest:

[Name], Secretary

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

RESOLUTION NO. 2024-

**RESOLUTION AUTHORIZING ADOPTION OF AMENDMENTS TO THE SAN LUIS
& DELTA-MENDOTA WATER AUTHORITY BYLAWS**

WHEREAS, by Resolution 1998-159 the Board of Directors of the San Luis & Delta-Mendota Water Authority (the “Board” and the “Water Authority,” respectively) authorized execution of that certain Memorandum of Understanding Between Friant Water Users Authority and the Water Authority Relating to Allocation, Collection and Payment of Operation, Maintenance & Replacement Costs for Water Delivered Through Certain Central Valley Project Facilities (the “MOU”); and

WHEREAS, by Resolution 2003-2017 the Board of the Water Authority authorized execution of that certain “First Amended and Restated Memorandum of Understanding Between Friant Water Users Authority and San Luis & Delta-Mendota Water Authority Relating to Allocation, Collection and Payment of Operation, Maintenance & Replacement Costs for Water Delivered Through Certain Central Valley Project Facilities,” (“First Amended MOU”) following amendment of the Agreement for the Transfer of the Operation, Maintenance and Replacement, and Certain Financial and Administrative Activities of the Delta-Mendota Canal and Related Works (the “Transfer Agreement”); and

WHEREAS, in 2004, the Friant Water Users Authority assigned to the Friant Water Authority (“FWA”) all of its right, title, and interest in the Friant Transfer Agreement, and FWA thereafter stood in the shoes of Friant Water Users Authority as it relates to the First Amended MOU; and

WHEREAS, following facilitated negotiations, in January 2024 FWA and the Water Authority reached agreement in principle and executed a Memorandum of Agreement that confirmed the general terms of proposed amendments to the First Amended MOU, settlement terms regarding the disputes, and amendments to other Water Authority and FWA governing documents; and

WHEREAS, following execution of the Memorandum of Agreement, FWA and the Water Authority drafted amendments to the First Amended MOU and its four exhibits in order to develop the “Second Amended and Restated Memorandum of Understanding Between Friant Water Authority and San Luis & Delta-Mendota Water Authority Relating to Allocation, Collection and Payment of Operation, Maintenance and Replacement Costs for Water Delivered Through Certain Central Valley Project Facilities” (the “Second Amended MOU”); and

WHEREAS, by Resolution 2024-527 the Board authorized execution of the Second Amended MOU, but indicated that the Second Amended MOU would not become effective until (a) the completion of a sixty-day review of the “2024 SLDMWA OM&R Cost Recovery Plan,” Exhibit B to the Second Amended MOU, by all parties with payment obligations under Article 12 of the Water Authority’s Transfer Agreement, and (b) submittal to Reclamation for review and comment; and

WHEREAS, Article V.A.1. of the Second Amended MOU provides that FWA is entitled to representation on the Board in that a FWA representative may vote on any action item funded in whole or in part, from any OM&R fund or Reserves to which Friant Division Contractors have or will have contributed; and

WHEREAS, Article V.A.4. of the Second Amended MOU provides that FWA is entitled to one of six voting positions on a Water Authority Planning Committee, with the right to vote on all matters of the committee; and

WHEREAS, in order to allow for FWA participation in Board meetings and for the development of the Planning Committee as described in Article V.A.1 and Article V.A.4 of the Second Amended MOU, the Board must first amend the “San Luis & Delta-Mendota Water Authority Bylaws” (“Bylaws”), which in their current form do not allow for such actions; and

WHEREAS, the Board and the Water Authority, pursuant to the Water Authority’s procedures and the California Government Code, from time to time, may adopt policies for the efficient and lawful administration of the Water Authority; and

WHEREAS, Article 15 of the Water Authority’s Joint Exercise of Powers Agreement dated January 1, 1992 (“JPA”), provides “the Board may adopt from time to time such bylaws, rules and regulations for the conducts of its affairs as may be required;” and

WHEREAS, Article VIII of the Bylaws allows for the Bylaws to be amended by resolution of the Board, which requires a majority Board vote pursuant to Article III, Section 3.07 of the Bylaws; and

WHEREAS, the Board has reviewed and considered the proposed amendments to the Bylaws.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS, THAT:

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

Section 2. The Board has reviewed and considered the proposed Bylaws amendments including the proposed amendments allowing for FWA representation on the Board, commensurate amendments regarding closed sessions and quorum and voting, amendments establishing the Water Authority Planning Committee, and certain other non-substantive amendments, and hereby authorizes the adoption of the proposed Bylaws amendments.

Section 3. The authorization conferred by this Resolution with respect to FWA representation on the Board shall be contingent upon the Second Amended and Restated JPA becoming effective, which itself is contingent upon the Second Amended MOU becoming effective and the Water Authority receiving written approval of the Second Amended and Restated JPA from a majority of the twenty-seven Water Authority members.

Section 4. In the event the contingencies described in Section 3 occur, the proposed Bylaws amendments shall be adopted with no further Board action required.

Section 5. In the event one or both contingencies described in Section 3 fail to occur, the authorization conferred by this Resolution with respect to the proposed Bylaws amendments regarding FWA representation on the Board is revoked *ab initio*, and any documents executed by the Water Authority in reliance upon the proposed Bylaws amendments regarding FWA representation on the Board shall have no binding force or effect.

Section 6. Except as expressly provided herein, all other sections and provisions of the Bylaws shall remain in full force and effect.

Section 7. This Bylaws amendment shall remain in full force and effect from year to year, until and unless it is revoked or modified by the Board.

PASSED, APPROVED AND ADOPTED this [redacted] day of May, 2024, by the Board of Directors of the San Luis & Delta-Mendota Water Authority.

Cannon Michael, Chair

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

Attest:

Federico Barajas, Secretary

.....

I hereby certify that the foregoing Resolution No. 2024- was duly and regularly adopted by the Board of Directors of the San Luis & Delta-Mendota Water Authority at the meeting thereof held on the ____th day of May, 2024.

Federico Barajas, Secretary

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY



BYLAWS

Adopted: April 8, 2021

First Amendment: January 11, 2024

Second Amendment: , 2024

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DRAFT

BYLAWS OF THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

PREAMBLE

These Bylaws are provided pursuant to Article 15 of the Amended and Restated Joint Exercise of Powers Agreement of the San Luis & Delta-Mendota Water Authority effective as of January 1, 1992, among the signatory parties thereto, as such agreement may be amended from time to time.

ARTICLE I. AUTHORITY POWER

Section 1.01 RESERVED POWER.

All powers for the management, government, and control of the San Luis & Delta-Mendota Water Authority (the “**Authority**” or “**SLDMWA**”) and its affairs, not conferred on any other person, office, or official by law, the then-current Joint Exercise of Powers Agreement (“**Agreement**”), or these Bylaws are reserved in the Board of Directors (“**Board**”) of the Authority to the maximum extent permitted by law.

Section 1.02 CONFLICT BETWEEN BYLAWS AND AGREEMENT.

Unless specifically defined in these Bylaws, all defined terms shall have the same meaning ascribed to them in the Agreement. If any term of these Bylaws conflicts with any term of the Agreement, the Agreement terms shall prevail, and these Bylaws shall be amended to eliminate such conflict of terms. Unless the context or reference to the Agreement requires otherwise, the general provisions, rules of construction, and applicable statutory definitions will govern the interpretation of these Bylaws.

Section 1.03 RELATIONSHIP BETWEEN BYLAWS AND RESOLUTIONS.

To the extent these Bylaws conflict with any Authority practices or policies previously memorialized in resolutions adopted by the Board, these Bylaws control. Specifically, these Bylaws supersede the following Resolutions:

- 2017-423 (Amending Resolution 2001-191);
- 2017-412 (Amending Resolution 2001-191);
- 2016-405 (Establishing Personnel Subcommittee of the Finance and Administration Committee);
- 2013-371 (Confirming Establishment of the Principal Office for the San Luis & Delta-Mendota Water Authority and Updating Place and Confirming Time of Regular Meetings of the Board of Directors);
- 2001-191 (Resolution Revising and Superseding Resolution 1998-164);
- 1996-136 (Amending Resolution 1993-49, Resolution Adopting Procedures to Fill Vacancies in Position of Director or Alternate Director as to Divisions 1 and 5); and

- 1993-49 (Adopting Procedures to Fill Vacancies in Position of Director or Alternate Director).

ARTICLE II. OFFICE

The principal office for the transaction of business of the Authority is 842 6th Street, Los Banos, Merced County, California, 93635 (Resolution No. 2013-371). The Board may change the principal office of the Authority if necessary.

ARTICLE III. MEETINGS

Section 3.01 COMPLIANCE WITH BROWN ACT.

All meetings of the Board and every committee subject to the Ralph M. Brown Act (California Government Code section 54950 et seq.) (“**Brown Act**”) will be called, held, noticed, and conducted according to the provisions of the Brown Act. All Authority committees subject to the Brown Act must comply with the applicable provisions of this Article III, with regard to conducting their meetings. Board and committee meetings may be held by teleconference as allowed by and in conformity with the Brown Act, including but not limited to Government Code section 54953. In the event these Bylaws are in conflict with the Brown Act, the provisions of the Brown Act shall govern.

Section 3.02 REGULAR MEETINGS.

Except as otherwise determined by the Board, the Board will hold a regular meeting on the first Thursday after the first Monday of each month, at 9:30 a.m., at 842 6th Street, Los Banos, California (Resolution No. 2013-371). The Board will cause an agenda for its meetings to be posted in accordance with all applicable requirements of the Brown Act.

Section 3.03 ADJOURNED MEETINGS.

The Board, or any members of the Board if less than a quorum, may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment in accordance with Government Code section 54955.

Section 3.04 SPECIAL MEETINGS.

Special meetings of the Board may be called by the Chair of the Board (“**Chair**”), the Vice Chair of the Board (“**Vice Chair**”) in the absence of the Chair, or by a majority of the Board by delivering written notice personally or by any other permitted means to each member of the Board in accordance with Government Code section 54956. The written notice may be dispensed with as to any member of the Board who, prior to the time the meeting convenes, files with the Secretary a written waiver of notice or as to any member who is actually present at the meeting at the time it convenes.

Section 3.05 CLOSED SESSIONS.

The Board may enter into a closed session during a regular, adjourned regular, special, or adjourned special meeting to consider matters as may lawfully be considered in such sessions. The Board shall comply in all respects with closed session requirements and procedures of the Brown Act.

Pursuant to Government Code section 54956.96, a provision of the Brown Act, the Board hereby authorizes disclosure of confidential information obtained in a closed session of the Board in the following situations and manners. Such disclosure shall not violate a Director's or FWA Representative's general obligation to maintain as confidential closed session discussion.

(1) A Director, or Alternative Director attending a Board closed session in place of a Director may disclose confidential information that has direct financial or liability implications for the Member to that Member's legal counsel for purposes of obtaining advice on whether the matter has direct financial or liability implications for that Member; and

(2) A Director, or Alternative Director attending a Board closed session in place of the Director may, upon the advice of its legal counsel pursuant to paragraph (1) above, disclose confidential information that has direct financial or liability implications for the Member to that Member's legislative body in a closed session of the Member's legislative body so long as that closed session is properly noticed and conducted in accordance with the Brown Act.

(3) The FWA Representative, or FWA Representative Alternate attending a Board closed session in place of the FWA Representative, may (a) disclose confidential information that has direct financial or liability implications for FWA to FWA's legal counsel for purposes of obtaining advice on whether the matter has direct financial or liability implications for FWA, and (b) upon the advice of its legal counsel pursuant to (a) in this Section 3.05(3), disclose confidential information that has direct financial or liability implications for FWA to FWA's Board of Directors in a closed session of the FWA Board of Directors so long as that closed session is properly noticed and conducted in accordance with the Brown Act.

Section 3.06 CONDUCT OF MEETINGS.

The Chair, or in his or her absence the Vice Chair, will preside at and conduct all meetings of the Board. In the absence of the Chair and Vice Chair at any meeting where a quorum is present, the Board will appoint a director as the Chair Pro Tempore, who will preside at the meeting.

Section 3.07 QUORUM AND VOTING.

A majority of the then-appointed Directors plus any Alternate Directors attending in the absence of their respective Directors shall comprise a quorum of the Board for the purposes of transacting the Authority's business. Each Director or Alternate Director shall have one vote. Any Director abstaining from a vote will be counted for purposes of determining the existence of a quorum, but will not be deemed to be voting. A Director or Alternate Director must be present at or participating via teleconference in a meeting in order to vote. There will be no proxy or absentee voting at Board meetings.

Except as otherwise provided herein or by law, the vote of a majority of all the Directors present shall be required for the Authority to take action, with the following exceptions:

- (a) The Authority shall not participate in any lawsuits, or administrative proceeding or other similar proceedings (except to defend the Authority) except upon the vote of 85% of the Directors present.

- (b) The Authority shall not endorse or oppose, or otherwise formally support or oppose any legislation except upon the vote of 85% of the Directors present.
- (c) This Section should not be read to preclude the Executive Director or his or her delegee from taking a position on legislation on behalf of the Authority that is consistent with adopted legislative or policy objectives, after obtaining the concurrence of the Chair, the Vice Chair, and the chairs of the Finance and Administration and Water Resources Committees, provided that the Executive Director informs the Board regarding such positions on legislation no later than within three business days.
- ~~(e)~~(d) For agenda items on which a Representative appointed by Friant Water Authority (“FWA Representative”) may vote, the majority vote required for the Authority to take action is the majority of the group comprised of the Directors present and the FWA Representative, if present. Accordingly, the number of votes required to reach a majority may be higher for agenda items on which the FWA Representative may vote.

If there is no quorum of the Board, a committee, or a subcommittee, then those present may decide to: (1) adjourn the meeting, (2) cancel the meeting, or (3) proceed as a “committee of the whole,” although in that event no action may be taken or decisions made.

ARTICLE IV. DIRECTORS AND OFFICERS

Section 4.01 GOVERNING BODY.

- (a) The business of the Authority shall be conducted by a Board of Directors consisting of nineteen (19) Directors.
- (b) For purposes of electing directors, Members of the Authority shall be separated into five divisions as set forth in Exhibit B to the Agreement, such divisions to be known as Division 1, Division 2, Division 3, Division 4, and Division 5. Members included in each Division shall select four Directors and Alternate Directors except Division 5 which shall select three Directors and Alternate Directors.
- (c) The initial selection of Directors and Alternate Directors shall be in accordance with the procedures described in Article 9 of the Agreement, with representation as follows:
 - (i) Division 1: Four Directors and four Alternate Directors. No more than one Director and Alternate Director may represent a single Member.
 - (ii) Division 2: Four Directors and four Alternate Directors. No more than two Directors and Alternate Directors may represent a single Member.
 - (iii) Division 3: Four Directors and four Alternate Directors. No more than two Directors and Alternate Directors may represent a single Member.
 - (iv) Division 4: Four Directors and four Alternate Directors. No more than two Directors and Alternate Directors may represent a single Member.
 - (v) Division 5: Three Directors and three Alternate Directors. No more than one Director and Alternate Director may represent a single Member.
- (d) The selection of Directors and Alternate Directors by the Members of each Division to fill vacancies on the Authority Board shall occur as follows (Resolution Nos. 1996-136, 1993-

49):

(i) Divisions 1 and 5:

- 1) The remaining Directors from said Division or the Board of Directors of any Member within the Division shall promptly nominate a qualified individual, and shall immediately thereafter notify the Secretary of the Authority of the vacancy and of the nomination of the successor.
- 2) Upon receipt of the notice of the vacancy and of the nomination of a successor Director or Alternate Director, the Secretary of the Authority shall circulate to each Member of the Division notice of the proposed change and notice of the opportunity to notify the Authority of any objection to the nomination within thirty (30) days.
- 3) In the event the Authority receives no notice of objection within the 30-day period, the successor Director or Alternate Director shall be deemed elected by the Members in such Division. Such election shall be effective the day following expiration of the thirty-day period.

(ii) Divisions 2, 3, and 4: The governing body of the Member from which the Director or Alternate Director who caused the vacancy came shall have the right to promptly appoint a qualified individual, and shall immediately thereafter notify the Secretary of the Authority of the vacancy and the appointment of the successor; the successor shall be deemed elected upon such notification to the Authority.

(iii) Division 3: Members who have selected a representative from an Associate Member as one of their Directors or Alternate Directors shall, in the event of a vacancy in such directorship, select a successor in consultation with the Associate Members in that Division, provided that, if there exists a governing board of an entity formed by Central California Irrigation District, Firebaugh Canal Water District, San Luis Canal Company, and Columbia Canal Company, then such governing body shall appoint a representative to fill any vacancy from one of the Authority's Associate Members.

(e) In the event within Division 2, 3, or 4 Members fail to act in accordance with the procedures outlined in Section 4.01(d)(ii) above to appoint a successor within a reasonable time, or in the event in Division 1 or 5 the Authority receives an objection to the nomination within the thirty (30) day period, or more than one successor per vacant position is nominated pursuant to Section 4.01(d)(i) above, the Authority shall provide each Member of the Division with a Notice of Available Director and/or Alternate Director Position(s), the date by which nominations for such position must be received, the date by which the Authority will circulate a slate of all individuals nominated for such position or positions together with voting instructions, and the voting date (Resolution No. 1996-136).

(f) Under the Second Amended and Restated Memorandum of Understanding Between the Friant Water Authority and the San Luis & Delta-Mendota Water Authority Relating to Allocation, Collection, and Payment of Operation, Maintenance, and Replacement Costs for Water Delivered through Certain Central Valley Project Facilities, dated [REDACTED], 2024 (the "Second Amended MOU"), and as it may be amended, FWA has representation on

the Authority Board of Directors and on certain Authority committees. FWA's appointments to the Authority Board will be made as follows:

- (i) FWA may designate a FWA director, employee, or consultant to serve as the FWA Representative and as the FWA Representative Alternate on the Board.
- (ii) The FWA Representative may participate in discussion and vote on any Board agenda item that the presiding officer determines is funded, in whole or in part, from any operation, maintenance, and replacement ("OM&R") fund or Reserves to which Friant Division Contractors have contributed. The FWA Representative will not participate in discussion or vote on Board agenda items that are not so funded or where the Authority makes express findings and provides appropriate documentation showing that the Authority will not use such funds, in whole or in part. The FWA Representative will not be counted for purposes of determining a quorum or the number of votes required to approve a Board agenda item that is not funded by Friant Division Contractors as described above. The FWA Representative's vote will have the same weight as one Director's vote. The FWA Representative will maintain his or her position relative to the Authority Board until a successor is selected by FWA and FWA so notifies the Authority.

Section 4.02 QUALIFICATIONS.

Each Director and Alternate Director shall be appointed or selected by the Members of the respective Division in accordance with Section 4.01 above. Each Director and Alternate Director shall be a member of a governing body of a Member, shall be on the staff of or a permanent consultant of the Member, or shall otherwise be formally appointed by the governing body of the Member.

Section 4.03 ATTENDANCE REQUIREMENT.

The position of any Director shall be deemed vacant if such Director is absent from three (3) consecutive regular Board meetings without either good cause provided in writing to the Secretary within thirty (30) days of the absence, or substitute attendance by his or her Alternate Director. Good cause shall be determined at the discretion of the Authority Chair.

Section 4.04 DUTIES.

The Board and the officers and employees of the Authority will perform all duties established by California law, the Agreement, and these Bylaws, and will at all times comply with the Constitution and the laws of the State of California.

Section 4.05 TRAINING.

In their capacity as Directors or staff for Members, the Authority's Directors, committee members, subcommittee members, and their alternates shall receive training (e.g. general ethics principles and ethics laws relevant to public service, sexual harassment prevention) to the extent required by law.

Section 4.06 CODE OF CONDUCT.

The conduct of the Authority's Directors, committee members, subcommittee members, the FWA Representative, and their alternates, should enhance the integrity and goals of the Authority and in furtherance thereof they are expected to maintain the highest ethical standards, to follow these policies and procedures, to follow the joint powers agreement that formed the Authority, to follow these duly adopted Bylaws, to follow Board-adopted resolutions, and to abide by all applicable local, state, and federal laws. To assist in the governing of behavior between and among them, Directors, committee members, subcommittee members, the FWA Representative, and their alternates shall observe the following rules and principles:

- The Board's primary responsibility is formulating and evaluating Authority policies for the common good of all Members; routine matters concerning the Authority's operations are delegated to its staff.
- The work of the Authority is a team effort which requires support by staff of the Authority and its member agencies.
- Directors, committee members, subcommittee members, the FWA Representative, or their alternates shall support the maintenance of a positive and constructive work environment for Authority employees.
- The needs of the Members shall be the priority of the Directors, committee members, subcommittee members, and their alternates.
- The dignity, style, values and opinions of all Directors, committee members, subcommittee members, the FWA Representative, and their alternates shall be respected.
- Board deliberation shall be fair, open and thorough, but also timely, orderly and kept to the point.
- Differing viewpoints are healthy in the decision-making process.
- As required by and to the extent authorized by law, Directors, committee members, subcommittee members, the FWA Representative, and their alternates shall respect the confidentiality appropriate to issues of a sensitive nature, including the legal obligation to maintain confidential closed session discussion and attorney-client privileged communication.

As set forth in more detail below in Section 7.01, Directors, committee members, subcommittee members, the FWA Representative, and their alternates must avoid conflicts of interest with respect to their fiduciary responsibility and are obligated by virtue of their office to discharge their responsibilities with integrity and fidelity and are prohibited from placing themselves in a position where their private, personal interest may conflict with their official duties. Whenever a Director has reason to believe he or she has a potential for a conflict of interest, the Director may seek the advice of General Counsel, counsel for his or her Member agency, or a private attorney.

Section 4.07 OFFICERS.

The officers of the Authority Board are the Chair, Vice Chair, a Secretary, and a Treasurer. The Chair and Vice Chair are required to be selected from the membership of the Authority Board. No one person may hold more than one office.

Section 4.08 CHAIR.

The Chair shall preside at all meetings of the Board. The Chair shall serve as an ex-officio member of the Water Resources Committee and the Finance and Administration Committee (“Committees”). The Chair will have the right to vote on all matters coming before the Board and the Committees on which the Chair serves and will have only one vote, just as the other Board and Committee members. The Chair will ensure engagement of directors and that clear policy direction is provided to the Executive Director, consistent with the positions taken by the Board. The Chair is responsible for leadership, control, and content of Board meetings; the Chair will set the agenda for all Board meetings, working with the Executive Director. The Chair will enforce decorum at meetings. As authorized by the Board, the Agreement, or these Bylaws, the Chair is empowered to represent the Authority at all times, consistent with Board policy. The Chair will work with the Executive Director to ensure that Board policy and directions are implemented. The Chair also will have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 4.09 VICE CHAIR.

In the absence or disability of the Chair, the Vice Chair will perform all the duties of the Chair and when so acting will have all the powers of, and be subject to all the restrictions upon, the Chair. The Vice Chair will have such other powers and perform such other duties as may from time to time be prescribed by the Board, the Agreement, or these Bylaws. The Vice Chair will be an ex-officio member of the Water Resources Committee and the Finance and Administration Committee. The Vice Chair will have the right to vote on all matters coming before the Board and the Committees and will have only one vote, just as the other Board and Committee members. As authorized by the Board, the Agreement, or these Bylaws, the Vice Chair will have the authority to act on behalf of the Authority.

Section 4.10 SECRETARY.

The Board shall elect a Secretary who may be, but is not required to be, a Director. The Secretary, or his or her designee, shall be responsible for keeping the minutes of all meetings of the Board and all other official records of the Authority. Once elected, the Secretary shall hold office until he or she resigns, is removed, or is otherwise disqualified to serve, or until his or her successor is elected and qualified to serve.

Section 4.11 TREASURER.

The Board shall appoint a Treasurer of the Authority who shall be the depository of funds and shall have custody of all money of the Authority, from whatever source. Once appointed, the Treasurer shall hold office until he or she resigns, is removed, or is otherwise disqualified to serve, or until his or her successor is appointed and qualified to serve.

Section 4.12 ELECTION OF OFFICERS.

- (a) Initial Election. The Chair and Vice Chair will be chosen at the first meeting of each Fiscal Year. Their term of office will be for one year starting in the month of their election and each will hold office until he or she resigns, is removed, or is otherwise disqualified to serve, or until his or her successor is elected and qualified to serve.

- (b) Selection of Replacement. If any officer resigns or otherwise fails to complete the remainder of his or her term, the Board will nominate a candidate to stand for election to serve out the remainder of that officer's term of office to be voted on at the next Board meeting following the event ending the officer's term of service.

Section 4.13 COMPENSATION OF DIRECTORS AND OFFICERS.

While the Agreement authorizes compensation of Directors as fixed from time to time, the Authority does not compensate Directors or Alternate Directors for time incurred in the conduct of the Authority's business without prior vote of the Board.

The Authority adheres to California Government Code sections 53232 through 53232.4 when dealing with issues of expenditure reimbursements for Directors, committee members, subcommittee members, or their alternates.

Section 4.14 REMOVAL OF OFFICERS.

The Board may remove any officer, with or without cause, at any regular or special meeting of the Board upon the vote of 75% of the Directors present.

ARTICLE V. COMMITTEES

Section 5.01 FORMATION OF COMMITTEES AND SELECTION OF MEMBERS.

The Board may establish any standing committees it deems necessary to carry out the purposes of the Authority. All committees and their members serve at the pleasure of the Board and may be reconstituted, re-formed, reconfigured, or disbanded at any time at the discretion of the Board, except those committees described in Sections 5.03 through 5.06, which may only be reconstituted, re-formed, reconfigured, or disbanded by an amendment of these Bylaws. Every Authority committee will be comprised of Committee Members and Alternate Members that are members of a governing body of an Authority Member Agency, on the staff of or a permanent consultant of an Authority Member Agency, or otherwise formally appointed by the governing body of an Authority Member Agency (see Resolution No. 2017-412). Every Authority committee will be advisory to the Board, and the power to determine the Authority's course of action will remain with the Board. All standing committees shall be subject to the Brown Act.

The Board or the Authority Chair may establish ad hoc, or temporary advisory committees that are composed of less than a quorum of the Board, serve a limited or single purpose, are not perpetual, and that will be dissolved once their specific task(s) are completed, as needed to further the mission of the Authority. To the extent ad hoc committees are charged with addressing matters that might impact the membership as a whole, effort will be made to include representation from each Division.

Section 5.02 LEADERSHIP.

The Authority Chair shall appoint from each committee or subcommittee a Committee Chair to serve as presiding officer of that committee, and each Committee Chair shall hold his or her position at the pleasure of the Authority Chair. In the absence of a Committee Chair, the respective Committee may select a temporary Chair to serve in the absence of the Committee Chair. The

chair of each committee will be responsible for leadership, control, and content of committee meetings. Vacancies will be filled in manner of appointments discussed below.

Section 5.03 WATER RESOURCES COMMITTEE.

- (a) Authority. The Water Resources Committee shall advise the Board of Directors and staff on policy matters concerning water supply and water supply operations issues and on the implementation of policy established by the Board on these matters. (Resolution No. 2001-191.)
- (b) Structure. The Water Resources Committee will consist of one Member from each Division of the Authority, the Chair, and the Vice Chair of the Authority. There shall be appointed one Alternate Member for each Divisional representative. There shall be no alternates for the Authority Chair or Vice Chair. The number of Members is seven (7).
- (c) Appointment. The Chair of the Authority, after conferring with the members of each Division, shall appoint the Members and Alternate Members of the committee. Divisional representatives shall serve at the pleasure of the Division. Vacancies in the Committee shall be filled in the same manner as appointment of original members.
- (d) Meetings. Regular meetings of the Water Resources Committee shall be held on the Monday prior to the regular meetings or adjourned regular meetings of the Board of Directors of the Authority, at 10:00 a.m., or on such alternate dates and times as may be selected by the Committee Chair or by the Executive Director of the Authority after conferring with the Committee Chair (Resolution No. 2017-423), or as otherwise determined by the Board.
- (e) Quorum and Voting. A majority of the then-appointed Committee Members plus any Alternate Committee Members attending in the absence of their respective Committee Members shall comprise a quorum of the Water Resources Committee. Each Committee Member, including the Authority Chair and Vice Chair, shall have one vote. In the absence of the Member for whom an Alternate Member is appointed, or in the cases of the Member's conflict of interest precluding participation, the Alternate Member is authorized to cast the vote of the Member. Committee actions shall be determined by the vote of a majority of a quorum.

Section 5.04 FINANCE AND ADMINISTRATION COMMITTEE.

- (a) Definitions.
 - (i) Non-OM&R Matters. All budget, financial, and administrative matters that do not relate to the ~~Operation, Maintenance and Repair~~ (“OM&R”) Budget or Program of the Authority.
 - (ii) OM&R Budget. A budget required to be prepared by the then-applicable agreement between the United States of America and the Authority to Transfer the Operation, Maintenance and Replacement and certain Financial and Administrative Activities Related to the San Luis & Delta-Mendota Canals, C.W. “Bill” Jones Pumping Plant, Delta-Mendota Canal/California Aqueduct Intertie Pumping Plant, O’Neill

Pumping/Generating Plant, San Luis Drain and Associated Works (“**Transfer Agreement**”).

- (iii) OM&R Program. All activities of the Authority required for the OM&R of the Project Facilities pursuant to the Transfer Agreement, including but not limited to, the program of work to be performed, the preparation and adoption of budgets, funding (including establishment of reserves and creation of debt), purchasing, auditing, inspections, cost recovery methodology, and fiscal agent responsibilities.
- (b) Authority. The Finance and Administration Committee (“**FAC**”) shall advise the Board of Directors and staff concerning the Authority’s general financial, budget, and administration matters, including personnel, and on the implementation of policy established by the Board on these matters. The FAC shall also have the responsibility for making recommendations to the Board concerning the financial audit, and may make recommendations concerning the OM&R Budget or OM&R Program as set forth in Section 5.04(a).
- (c) Structure. The FAC shall be comprised of one Member from each Division of the Authority, the Chair, and the Vice Chair of the Authority; and one representative of the Friant Water Authority (~~“**FWA**”~~) (Resolution No. 2001-191). There shall be appointed one Alternate Member for each Divisional representative and for the FWA representative. There shall be no alternates for the Chair and Vice Chair of the Authority. The initial number of Members is eight (8).
- (d) Appointment. The Chair of the Authority, after conferring with the members of each Division, shall appoint the Divisional Members and Alternate Members of the committee. Divisional representatives shall serve at the pleasure of the Division. The Chair of the Authority shall appoint the FWA Member and Alternate Member recommended, in writing, by the FWA, who shall serve at the pleasure of the FWA. Vacancies in the FAC shall be filled in the same manner as appointment of original members.
- (e) Meetings. Regular meetings of the FAC shall be held on the Monday prior to the regular meetings or adjourned regular meetings of the Board of Directors of the Authority, at 12:00 p.m., or on such alternate dates and times as may be selected by the Committee Chair or by the Executive Director of the Authority after conferring with the Committee Chair (Resolution No. 2017-423), or as otherwise determined by the Board.
- (f) Quorum and Voting.
 - (i) Matters Affecting the OM&R Budget or OM&R Program. A majority of the then-appointed Members plus any Alternate Members attending in the absence of their respective Members shall comprise a quorum of the Committee. Each Member, including the Chair and Vice Chair, shall have one vote. In the absence of the Member for whom an Alternate Member is appointed, or in the cases of the Member’s conflict of interest precluding participating, the Alternate Member is authorized to cast the vote of the Member. A recommendation of the FAC to the Authority Board of Directors to adopt or amend the OM&R Budget shall be adopted by the “yes” vote of at least 5 of 8 Members/Alternate Members voting in the place of an absent or disqualified Member.

At any point in the budget approval process, an OM&R Budget or OM&R budgetary issue may be remanded to the OM&R Technical Committee.

- (ii) Non-OM&R Matters. A majority of the then-appointed Members plus any Alternate Members attending in the absence of their respective Members shall comprise a quorum of the FAC. Each Member, including the Chair and Vice Chair, shall have one vote. In the absence of the Member for whom an Alternate Member is appointed, or in cases of the Member's conflict of interest precluding participation, the Alternate Member is authorized to cast the vote of the Member. The FWA Member and Alternate Member shall not be counted towards a quorum nor be entitled to vote on Non-OM&R Matters.

Section 5.05 OM&R TECHNICAL COMMITTEE.

- (a) Authority. The OM&R Technical Committee is a subcommittee of the FAC and is advisory to the FAC and the Board of Directors of the Authority. The Technical Committee is charged with working with the Authority's staff in the development of OM&R budgets. The Technical Committee shall be authorized to recommend the OM&R budgets for approval by the FAC and shall be obligated diligently to reconsider any budget or budgetary issue that is remanded back to it from the FAC at any point in the budget approval process, and to provide its recommendation thereon (Resolution No. 2001-191).
- (b) Structure. As long as the ~~Memorandum of Understanding Between Friant Water Users Authority and San Luis & Delta Mendota Water Authority Relating to Allocation, Collection and Payment of Operation, Maintenance & Replacement Costs for Water Delivered through Certain Central Valley Project facilities~~ (~~“Second Amended MOU”~~), ~~as amended~~, remains in effect, the OM&R Technical Committee shall be comprised of the following members, with no CVP Contractor entitled to have more than one representative on such Committee at any time:
 - Contactors served from Mendota Pool: 1
 - Contractors served from Lower DMC: 1
 - Contractors served from Upper DMC: 1
 - Contractors served from San Luis Canal
(1 from Westlands + 1 from others): 2
 - Contractors served from San Felipe Div.: 1
 - Exchange Contractors: 1
 - FWA: 1
 - U.S. Bureau of Reclamation (“USBR”): 1
 - Authority Technical Staff: 1
- (c) Appointment. The Chair of the Authority, after conferring with the members from each service (delivery) area, shall appoint the Members of the committee. Representatives from a service area shall serve at the pleasure of the members from such service area. The FWA representative and an alternate shall be appointed by the Authority Chair, as recommended, in writing, by ~~the~~ FWA, and the ~~Reclamation-USBR~~ representative shall be appointed by

the Authority Chair upon recommendation from ReclamationUSBR. Vacancies in the Committee shall be filled in the same manner as appointment of original members.

- (d) Qualifications. Members of the OM&R Technical Committee may be members of a governing body of an Authority Member Agency or on the staff of or a permanent consultant of an Authority Member Agency, and shall be selected because of technical or budgetary expertise.
- (e) Meetings. The OM&R Technical Committee may, by motion, fix and determine the time and place of regular meetings. The Chair of the Finance & Administration Committee, the Chair of the OM&R Technical Committee, or a majority of the OM&R Technical Committee may call special meetings as necessary.
- (f) Quorum and Voting. A majority of the then-appointed Members plus any Alternate Members attending in the absence of their respective Members shall comprise a quorum of the OM&R Technical Committee. Each Member shall have one vote. In the absence of the Member for whom an Alternate Member is appointed, or in the cases of the Member's conflict of interest precluding participation, the Alternate Member is authorized to cast the vote of the Member. The recommendation of the OM&R Technical Committee to the FAC to adopt or amend an OM&R Budget shall be adopted by the "Yes" vote of at least eight of ten Members.

Section 5.06 PLANNING COMMITTEE.

- (a) Authority. The Planning Committee is a subcommittee of the FAC and is advisory to the FAC and the Board of Directors of the Authority. The Planning Committee will review, evaluate, and establish a recommendation for the allocation of costs of any Extraordinary OM&R project for which the Authority's estimated total project cost is greater than 50% of the current year's routine OM&R Budget, excluding power and Reserves costs.
- (b) Structure. FWA will be entitled to one of six voting positions on the Planning Committee, with the right to vote on all matters. As long as the Second Amended MOU, as amended, remains in effect, the Planning Committee will be comprised of the following members, with no CVP Contractor entitled to have more than one representative on such committee at any time:

<u>SLDMWA Division 1</u>	<u>1</u>
<u>SLDMWA Division 2</u>	<u>1</u>
<u>SLDMWA Division 3</u>	<u>1</u>
<u>SLDMWA Division 4</u>	<u>1</u>
<u>SLDMWA Division 5</u>	<u>1</u>
<u>FWA</u>	<u>1</u>

- (i) One alternate will be appointed for each such representative, and each such alternate will participate and cast the vote of the represented party in the absence of such party's representative or in case the representative is barred from voting due to a

conflict of interest.

(ii) In addition, the Planning Committee will include five non-voting members:

<u>Authority staff/consultant representative</u>	<u>1</u>
<u>FWA staff/consultant representative</u>	<u>1</u>
<u>USBR representative</u>	<u>1</u>
<u>Authority technical representative</u>	<u>1</u>
<u>FWA technical representative</u>	<u>1</u>

The non-voting members will not count in the calculation of a quorum.

(c) Appointment.

(i) Voting Members. The Chair of the Authority, after conferring with the members from each Division, shall appoint the Division Members and Alternate Members of the Planning Committee. Division representatives shall serve at the pleasure of the Division. The Chair of the Authority shall appoint the FWA Member and Alternate Member recommended, in writing, by FWA, who shall serve at the pleasure of FWA. Vacancies in the Planning Committee shall be filled in the same manner as appointment of original members.

(ii) Non-Voting Members. The FWA and USBR non-voting members shall be appointed by the Authority Chair upon recommendation from FWA and USBR respectively. Vacancies in the Committee shall be filled in the same manner as appointment of original members. The Authority shall notify the Authority Chair of its staff/consultant representative and technical representative in writing.

(d) Meetings. The Planning Committee may, by motion, fix and determine the time and place of regular meetings. The Chair of the Finance & Administration Committee, the Chair of the OM&R Technical Committee, or a majority of the Planning Committee may call special meetings as necessary.

(e) Planning Committee Quorum, Business, and Voting.

(i) Quorum. A majority of the then-appointed Planning Committee Voting Members plus any Alternate Members attending in the absence of their respective Members shall comprise a quorum of the Planning Committee. Each Voting Member shall have one vote. In the absence of the Member for whom an Alternate Member is appointed, or in the cases of the Member's conflict of interest precluding participation, the Alternate Member is authorized to cast the vote of the Member.

(ii) The Planning Committee may adopt procedures regarding the development of cost allocation recommendations. Such procedures, if adopted, will be consistent with the terms of the Second Amended MOU.

ARTICLE VI. EMPLOYEES AND AGENTS

Section 6.01 AUTHORITY TO EMPLOY STAFF AND AGENTS.

The Authority will employ and appoint such employees and agents (including consultants and

contractors) as the business of the Authority may require. Each such employee will have such authority and perform such duties, and receive such salary, as the Board or Executive Director deems appropriate, may from time-to-time determine is appropriate to advance the interests of the Authority. The Board or Executive Director, as appropriate, reserves the right to change an employee's or agent's job duties at any time.

Section 6.02 EXECUTIVE DIRECTOR.

The Executive Director of the Authority shall be the chief administrative officer of the Authority, shall serve at the pleasure of the Board, and shall be responsible to the Board for the proper and efficient administration of the Authority as is or hereafter may be placed in his or her charge, or under his or her jurisdiction or control, pursuant to the provisions of the Agreement, these Bylaws, or of any motion, ordinance, resolution or order of the Board. The Executive Director shall exercise the powers and duties delegated by the Board.

Section 6.03 GENERAL COUNSEL.

The General Counsel of the Authority shall be the chief legal officer of the Authority, shall serve at the pleasure of the Board, and shall be responsible to the Board for the proper and efficient administration of the legal affairs of the Authority. The General Counsel shall also serve as part of the Authority's executive team.

Section 6.04 COMPENSATION OF EMPLOYEES AND AGENTS.

The Board will compensate the Authority's employees with such salaries and benefits as may be fixed by the Board consistent with applicable law and will also establish by contract the compensation for all agents of the Authority.

ARTICLE VII. MISCELLANEOUS

Section 7.01 CONFLICT OF INTEREST CODE.

Pursuant to California Government Code section 81000 et seq., the Authority shall maintain a Conflict of Interest Code. The Authority's Conflict of Interest Code, as may be amended from time to time, and a copy of which is attached hereto as Attachment A, incorporates by reference the terms of title 2, section 18730 of the California Code of Regulations.

Section 7.02 POLICIES.

The Authority has adopted a number of policies relevant to the efficient and effective administration and operations of the organization. The Executive Director and/or the Board, as appropriate, will review each of the Board-adopted policies as required, but no less frequently than every five years. This section does not preclude the Board from modifying existing policies, or adopting or modifying additional policies, consistent with the Agreement and these Bylaws.

ARTICLE VIII. AMENDMENT OR REPEAL OF BYLAWS

These Bylaws may be repealed or amended or new Bylaws adopted by resolution of the Board. Any representative abstaining from a vote will be counted for purposes of determining the existence of a quorum, but will not be deemed to be voting.

ARTICLE IX. SAVINGS CLAUSE

Should any provision of these Bylaws be inconsistent with the laws of the State of California, such laws (and not these Bylaws) will govern and these Bylaws will be interpreted to be consistent with such laws.

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