

Bylaws of the
NTC REGIONAL WATER ALLIANCE
A JOINT POWERS AGREEMENT AGENCY
Formed under the
California Joint Exercise of Powers Act

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ARTICLE 1 NAME

Section 1.1 JPA AGENCY Name

The name of this JPA AGENCY is “**NTC Regional Water Agency**” (the “JPA AGENCY”).

ARTICLE 2 OFFICES

Section 2.1 Principal Office

The principal office for the transaction of the business of the JPA AGENCY may be established at any place or places within or without the State of California by resolution of the Board.

Section 2.2 Other Offices

The Board may at any time establish branch or subordinate offices at any place or places where the JPA AGENCY is qualified to transact business.

ARTICLE 3 PURPOSES

Section 3.1 Specific Purpose

The specific purpose of the JPA AGENCY shall be as stated in the Joint Powers of Agreement forming the JPA AGENCY.

ARTICLE 4 LIMITATIONS

Section 4.1 Prohibited Activities

The JPA AGENCY shall not engage in any activities or exercise any powers that are not in furtherance of its purposes as stated in the JPA signed by all the parties.

ARTICLE 5 DEDICATION OF ASSETS

Section 5.1 Property Dedicated to Agency Purposes

No part of the net income or assets of the JPA AGENCY shall ever inure to the benefit of any of its Directors or Officers, or to the benefit of any private person, except that the JPA AGENCY is authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its purposes.

Section 5.2 Distribution of Assets upon Dissolution
Upon the dissolution or winding up of the JPA AGENCY, its assets remaining after payment, or provision for payment, of all debts and liabilities of the JPA AGENCY shall be distributed as stipulated by law.

ARTICLE 6 MEMBERSHIPS

Section 6.1 Members
The members are the parties to the JPA and or approved by a supermajority decision of the Board.

ARTICLE 7 DIRECTORS

Section 7.1 Number, Alternates and Qualifications

7.1.1 Number & Alternates

The authorized number of directors of the Agency (“Directors”) shall be as determined in the Agency JPA.

7.1.2 Qualifications

For each Party, each board representative including the alternate shall be an existing board member to the legal entity party to this agreement. Except in the case of Tulare County where Tulare County may do an assignment to the JPA board from the communities it represents.

Section 7.2 JPA AGENCY Powers Exercised by Board

Subject to the provisions of the original JPA the business and affairs of the JPA AGENCY shall be managed, and all powers shall be exercised, by or under the direction of the board of Directors (the “Board”). The Board may delegate the management of the activities of the JPA AGENCY to any person or persons, Management Company or committee however composed, provided that the activities and affairs of the JPA AGENCY shall be managed and all powers shall be exercised under the ultimate direction of the Board.

Section 7.3 Terms; Election of Successors

Directors, alternate Directors shall serve in accordance to the governing body of their appointing Parties or Agency (herein called the “Home Board”).

Directors shall be appointed to the Agency board **annually** by the Home Board for [_____] year terms. Each Director, including a Director appointed to fill a vacancy, shall hold office until the expiration of the term for which he or she was

appointed and until the qualification and appointment of a successor, or until that Director's earlier resignation or removal in accordance with these Bylaws.

Section 7.4 Vacancies

7.4.1 Events Causing Vacancy

A vacancy or vacancies on the Board shall be deemed to exist on the occurrence of the following: (i) the death, resignation, or removal of any Director; (ii) whenever the number of authorized Directors is increased; or (iii) the failure of the Home Board, at any meeting at which any Director or Directors are to be elected, to appoint the full authorized number of Directors.

7.4.2 Removal

The Board may by resolution declare vacant the office of a Director who has been declared of unsound mind by an order of court, or convicted of a felony, or found by final order or judgment of any court to have breached a duty under California Law.

[The Board may by resolution declare vacant the office of a director who fails to attend (#) [consecutive] Board meetings [during any calendar year].]

Directors may be removed without cause by a majority of Directors in their respective Home Boards. No Director may be removed by his/her Home Board if the JPA AGENCY would then be left without a duly elected Director or Directors in charge of its affairs and representing the party of the JPA.

7.4.3 No Removal on Reduction of Number of Directors

No reduction of the authorized number of Directors shall have the effect of removing any Director before that Director's term of office expires unless the reduction also provides for the removal of that specified Director in accordance with these Bylaws and California Law.

7.4.4 Resignations

A Director may resign by giving written notice to their Home Board. Such a written resignation will be effective on the later of (i) the date it is delivered or (ii) the time specified in the written notice that the resignation is to become effective. No Director may resign if the JPA AGENCY would then be left without a duly elected Director or Directors in charge of its affairs, except upon notice to the California Attorney General (the "Attorney General").

7.4.5 Selecting to Fill Vacancies

If there is a vacancy on the Board, including a vacancy created by the removal of a Director, the Home Board may fill such vacancy by appointing an additional director as soon as practicable after the vacancy occurs.

Section 7.5 Annual and Regular Meetings

Each year, the Board shall hold at least one region wide meeting, at a time and place fixed by the Board, for the purposes review and approval of the JPA AGENCY budget and transaction of other business. This meeting is referred to in these Bylaws as the “annual meeting.”

Other regular meetings of the Board may be held at such time and place as the Board may fix from time to time by policy.

Section 7.6 Special Meetings

Special meetings of the Board for any purpose may be called at any time by the Chairperson, or the President, or the Vice President (if any), or the Secretary, or any two Directors.

Section 7.7 Notice of Meetings

7.7.1 Manner of Giving

Except when the time and place of a regular meeting is set by the Board by resolution in advance (as permitted by Section 7.5), notice of the time and place of all regular and special meetings shall be given to each Director by one of the following methods:

- (a) Personal delivery of oral or written notice;
- (b) First-class mail, postage paid;
- (c) Telephone, including a voice messaging system or other system or technology designed to record and communicate messages;
- (d) A calendar or schedule that sets forth the date, time and place of more than one regular meeting.

All such notices shall be given or sent to the Director’s address, phone number, or e-mail address as shown on the records of the JPA AGENCY. Any oral notice given personally or by telephone may be communicated directly to the Director or to a person who would reasonably be expected to promptly communicate such notice to the Director.

7.7.2 Time Requirements

Notices sent by first-class mail shall be deposited into a United States mail box at least four days before the time set for the meeting. Notices given by personal delivery, telephone, voice messaging system or other system or technology designed to record and communicate messages, e-mail or other electronic transmission shall be delivered at least 48 hours before the time set for the meeting.

7.7.3 Notice Contents
The notice shall state the time and place for the meeting, except that if the meeting is scheduled to be held at the principal office of the JPA AGENCY, the notice shall be valid even if no place is specified. The notice need not specify the purpose of the meeting unless required to elsewhere in these Bylaws or require by California Law.

Section 7.8 Place of Board Meetings
Regular and special meetings of the Board may be held at any place that has been designated in the notice of the meeting.

7.8.1 Meetings by Telephone or Similar Communication Equipment
Any meeting may be held by conference telephone or other communications equipment permitted by California Law, as long as all Directors participating in the meeting can communicate with one another and all other requirements of California Law are satisfied. All such Directors shall be deemed to be present in person at such meeting.

Section 7.9 Quorum and Action of the Board

7.9.1 Quorum
A majority of Directors then in office shall constitute a quorum for the transaction of business, except to adjourn and for a Supermajority Decision as provided below.
A Supermajority Decision shall require the affirmative vote of majority plus one of the members of the Board of Directors.

7.9.2 Minimum Vote Requirements for Valid Board Action
Every act taken or decision made by a vote of the majority of the Directors present at a meeting duly held at which a quorum is present is the act of the Board, except for a Supermajority Decision as provided in the Agency JPA and these Bylaws.

A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Directors from the meeting, if any action taken is approved by at least a majority of the required quorum for that meeting.

7.9.3 When a Supermajority Vote Is Required for Valid Board Action
As stated in the Agency JPA a "Supermajority Decision" shall mean any decision by the Board of Directors to:
(i) Initiate litigation in the name of the Agency,
(ii) Issue bonds or other form of indebtedness obligating the Agency for an amount in excess of \$100,000,

- (iii) Adopt or amend the Agency's Bylaws,
- (iv) Change any Participation Percentage and/or amendments to the Agency's service area
- (v) Admit any new Member to the Agency
- (vi) Terminate any Member
- (vii) Changing the Parties' respective Dedicated Capacity shares.

Section 7.10 Waiver of Notice

The transactions of any meeting of the Board, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (i) a quorum is present, and (ii) either before or after the meeting, each of the Directors who is not present at the meeting signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent does not need to specify the purpose of the meeting. All waivers, consents, and approvals shall be filed with the JPA AGENCY records or made a part of the minutes of the meeting. Also, notice of a meeting is not required to be given to any Director who attends the meeting without protesting before or at its commencement about the lack of adequate notice. Directors can protest the lack of notice only by presenting a written protest to the Secretary either in person, by first-class mail addressed to the Secretary at the principal office of the JPA AGENCY as contained on the records of the JPA AGENCY as of the date of the protest, as of the date of the protest.

Section 7.11 Adjournment

A majority of the Directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place.

Section 7.12 Conduct of Meetings

Meetings of the Board shall be presided over by the Chairperson/President, or, if there is no Chairperson or the Chairperson is absent, by the Vice President or, in the absence of each of these persons, by a chairperson of the meeting, chosen by a majority of the Directors present at the meeting. The Secretary shall act as secretary of all meetings of the Board, provided that, if the Secretary is absent, the presiding officer shall appoint another person to act as secretary of the meeting. Meetings shall be governed by rules of procedure as may be determined by the Board from time to time, insofar as such rules are not inconsistent with or in conflict with these Bylaws, or with any provisions of law applicable to the JPA AGENCY.

Section 7.13 Fees and Compensation of Directors

The JPA AGENCY shall not pay any compensation to Directors for services rendered to the JPA AGENCY as Directors, except that Directors may be reimbursed for expenses incurred in the performance of their duties to the JPA AGENCY, in reasonable amounts as approved by the Board.

Also, Directors may not be compensated for rendering services to the JPA AGENCY in a capacity other than as Directors, unless such compensation is reasonable and further provided that not more than 49% of the persons serving as Directors may be “interested persons” which, for purposes of this Section only, means:

- (a) Any person currently being compensated by the JPA AGENCY for services rendered to it within the previous 12 months, whether as a full or part-time employee, independent contractor, or otherwise, excluding any reasonable compensation paid to a Director as Director; or
- (b) Any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person.

Section 7.14 Non-Liability of Directors

The Directors shall not be personally liable for the debts, liabilities, or other obligations of the JPA AGENCY.

ARTICLE 8 COMMITTEES

Section 8.1 Committees of Directors Only

The Board may, by resolution adopted by a majority of the Directors then in office, create one or more Board Committees (“Committees”), including an executive committee, finance committee, audit committee etc. each consisting of two or more Directors, to serve at the discretion of the Board. Any Committee, to the extent provided in the resolution of the Board, may be given the authority of the Board except that no Committee may:

- (a) Approve any action for which the California Law and the JPA Agreement also requires approval of the members or approval of a supermajority majority of all members;
- (b) Fill vacancies on the Board or in any Committee which has the authority of the Board;
- (c) Fix compensation of the Directors for serving on the Board or on any Committee;
- (d) Amend or repeal Bylaws or adopt new Bylaws;
- (e) Amend or repeal any resolution of the Board which by its express terms is not so amendable or repealable;
- (f) Appoint any other Committees or the members of these Committees;

- (g) Expend JPA AGENCY funds to support a nominee for Director after more persons have been nominated than can be elected; or
- (h) Approve any transaction (i) between the JPA AGENCY and one or more of its Directors or (ii) between the JPA AGENCY and any entity in which one or more of its Directors have a material financial interest.

Section 8.2

Advisory Committees, may or may not be Directors

The Board may create one or more advisory committees such as a technical committee to serve at the pleasure of the Board. Appointments to such advisory committees need not, but may, be Directors. The Board shall appoint and discharge advisory committee members. All actions and recommendations of an advisory committee shall require ratification by the Board before being given effect.

Section 8.3

Meetings and Action of Board Committees

Meetings and action of Committees shall be governed by, and held and taken in accordance with, the provisions of Article 7 concerning meetings of Directors. Minutes shall be kept of each meeting of any Committee and shall be filed with the JPA AGENCY records. The Committee shall report to the Board from time to time as the Board may require. The Board may adopt rules for the governance of any Committee not inconsistent with the provisions by these Bylaws. In the absence of rules adopted by the Board, the Committee may adopt such rules.

Section 8.4

Quorum Rules for Board Committees

A majority of the Committee members shall constitute a quorum for the transaction of Committee business, except to adjourn. A majority of the Committee members present, whether or not constituting a quorum, may adjourn any meeting to another time and place. Every act taken or decision made by a majority of the Committee members present at a meeting duly held at which a quorum is present shall be regarded as an act of the Committee, subject to the provisions of the California Law relating to actions that require a majority vote of the entire Board. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of Committee members, if any action taken is approved by at least a majority of the required quorum for that meeting.

Section 8.5

Revocation of Delegated Authority

The Board may, at any time, revoke or modify any or all of the authority that the Board has delegated to a Committee, increase or decrease (but not below two) the number of members of a Committee, and fill vacancies in a Committee from the members of the Board.

Section 8.6

JPA AGENCY Integrity Act/Audit Committee

In any fiscal year in which the JPA AGENCY receives or accrues gross revenues of two million dollars or more (excluding grants from, and contracts for services with, governmental entities for which the governmental entity requires an accounting of the funds received), the Board shall (i) prepare annual financial statements using generally accepted accounting principles that are audited by an independent certified public accountant (“CPA”) in conformity with generally accepted auditing standards; (ii) make the audit available to the Attorney General and to the public on the same basis that the Internal Revenue Service Form 990 is required to be made available; and (iii) appoint an Audit Committee.

The Audit Committee shall not include paid or unpaid staff or employees of the JPA AGENCY, including, if staff members or employees. If there is a finance committee, members of the finance committee shall constitute less than 50% of the membership of the Audit Committee and the chairperson of the Audit Committee shall not be a member of the finance committee. Subject to the supervision of the Board, the Audit Committee shall:

- (a) Make recommendations to the Board on the hiring and firing of the CPA;
- (b) Confer with the CPA to satisfy Audit Committee members that the financial affairs of the JPA AGENCY are in order;
- (c) Approve non-audit services by the CPA and ensure such services conform to standards in the Yellow Book issued by the United States Comptroller General; and
- (d) If requested by the Board, negotiate the CPA’s compensation on behalf of the Board.

ARTICLE 9 OFFICERS

Section 9.1

Officers

The officers of the JPA AGENCY (“Officers”) shall be a President/Chairperson, a Vice President, a Secretary, and a Treasurer. Other than the Chairperson, these persons may, but need not be, selected from among the Directors.

Section 9.2

Election of Officers

The Officers shall be elected by the Board at the annual meeting of the JPA AGENCY for a term of one year, and each shall serve at the discretion of the Board until his or her successor shall be elected, or his or her earlier resignation or removal. Officers may be elected for [] consecutive terms.

Section 9.3 Removal of Officers

Subject to the rights, if any, of an Officer under any contract of employment, any Officer may be removed, with or without cause, (i) by the Board, at any regular or special meeting of the Board, or at the annual meeting of the JPA AGENCY, or (ii) by an Officer on whom such power of removal may be conferred by the Board.

Section 9.4 Resignation of Officers

Any Officer may resign at any time by giving written notice to the JPA AGENCY. Any resignation shall take effect at the date of the receipt of that notice or at any later time specified in that notice; and, unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any of the JPA AGENCY under any contract to which the Officer is a party.

Section 9.5 Vacancies in Offices

A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office, provided that such vacancies shall be filled as they occur and not on an annual basis. In the event of a vacancy in any office other than the President, such vacancy shall be filled temporarily by appointment by the President, or if none, by the Vice President, and the appointee shall remain in office for 60 days, or until the next regular meeting of the Board, whichever comes first. Thereafter, the position can be filled only by action of the Board.

Section 9.6 Responsibilities of Officers

9.6.1 Chairperson/ President of the Board

The chairperson/President of the Board (the “Chairperson”), shall be a Director and shall preside at meetings of the Board and exercise and perform such other powers and duties as may from time to time be assigned to him or her by the Board or prescribed by these Bylaws.

9.6.2 Vice President

The Vice President of the Board (the “Vice President”) shall be a Director, in the absence or disability of the President, perform all the duties of the President and, when so acting, have all the powers of and be subject to all the restrictions upon, the President. The Vice President shall have such other powers and perform such other duties as may be prescribed by the Board.

9.6.3 Secretary

The secretary of the Board (the “Secretary”) shall attend to the following:

9.6.3.1 Bylaws

The Secretary shall certify and keep or cause to be kept at the principal office of the JPA AGENCY the original or a copy of these Bylaws as amended to date.

9.6.3.2 Minute Book

The Secretary shall keep or cause to be kept a minute book as described in this Bylaws.

9.6.3.3 Notices

The Secretary shall give, or cause to be given, notice of all meetings of the Board in accordance with these Bylaws.

9.6.3.4 JPA AGENCY Records

Upon request, the Secretary shall exhibit or cause to be exhibited at all reasonable times to any Director, or to his or her agent or attorney, these Bylaws and the minute book.

9.6.3.5 JPA AGENCY Seal and Other Duties

The Secretary shall keep or cause to be kept the seal of the JPA AGENCY, if any, in safe custody, and shall have such other powers and perform such other duties incident to the office of Secretary as may be prescribed by the Board or these Bylaws.

9.6.4 Treasurer

The treasurer of the Board (the "Treasurer") shall attend to the following:

9.6.4.1 Books of Account

The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and transactions of the JPA AGENCY, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements. The books of account shall be open to inspection by any Director at all reasonable times.

9.6.4.2 Financial Reports

The Treasurer shall prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required reports.

9.6.4.3 Deposit and Disbursement of Money and Valuables

The Treasurer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the JPA AGENCY with such depositories as may be designated by the Board; shall disburse, or cause to be disbursed, the funds of the JPA AGENCY as may be ordered by the

Board; shall render, or cause to be rendered to the President and Directors, whenever they request it, an account of all of his or her transactions as Treasurer and of the financial condition of the JPA AGENCY; and shall have other powers and perform such other duties incident to the office of Treasurer as may be prescribed by the Board or these Bylaws.

9.6.4.4 Bond

If required by the Board, the Treasurer shall give the JPA AGENCY a bond in the amount and with the surety or sureties specified by the Board for faithful performance of the duties of his office and for restoration to the JPA AGENCY of all its books, papers, vouchers, money, and other property of every kind in his possession or under his control on his death, resignation, retirement, or removal from office.

9.6.5 Additional Officers

The Board may empower the Chairperson to appoint such other Officers as the business of the JPA AGENCY may require, each of whom shall hold office for such period, have such authority, and perform such duties as are provided in these Bylaws or as the Board from time to time may determine.

Section 9.7 Chief Executive

Subject to such supervisory powers as may be given by the Board to the Chairperson/President, the Board may hire a chief executive who shall be the general manager of the JPA AGENCY, and subject to the control of the Board, shall supervise, direct and control the JPA AGENCY's day-to-day activities, business and affairs. The chief executive (who may be referred to as the "chief executive officer" or "executive director" *[Insert other desired titles]*) shall be empowered to hire, supervise and fire all of the employees of the JPA AGENCY, under such terms and having such job responsibilities as the chief executive shall determine in his or her sole discretion, subject to the rights, if any, of the employee under any contract of employment. The chief executive may delegate his or her responsibilities and powers subject to the control of the Board. He or she shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

Section 9.8 Compensation of Officers

9.8.1 Salaries Fixed by Board

The salaries of Officers, including the Chief Executive, if any, shall be fixed from time to time by resolution of the Board or by the person or Committee to whom the Board has delegated this function, and no Officer shall be prevented from receiving such salary by reason of the fact that he or she is also a Director, provided, however, that such compensation paid to a Director for serving as an Officer shall only be allowed if permitted under the provisions of Section 7 of these Bylaws. In all cases, any salaries received by Officers shall be reasonable and given in return for services actually rendered for the JPA AGENCY which

relate to the performance of the public benefit purposes of the JPA AGENCY. No salaried Officer serving as a Director shall be permitted to vote on his or her own compensation as an Officer.

9.8.2 Fairness of Compensation

The Board shall periodically review the fairness of compensation, including benefits, paid to every person, regardless of title, with powers, duties, or responsibilities comparable to the president, chief executive officer, treasurer, or chief financial officer (i) once such person is hired, (ii) upon any extension or renewal of such person's term of employment, and (iii) when such person's compensation is modified (unless all employees are subject to the same general modification of compensation).

ARTICLE 10 TRANSACTIONS BETWEEN JPA AGENCY AND DIRECTORS OR OFFICERS

Section 10.1 Transactions with Directors and Officers

10.1.1 Interested Party Transactions

Except as described in Section 10.1.2, the JPA AGENCY shall not be a party to any transaction:

- (a) In which one or more of its Directors or Officers has a material financial interest, or
- (b) With any agency, firm, association, or other entity in which one or more Directors or Officers has a material financial interest.

10.1.2 Requirements to Authorize Interested Party Transactions

The JPA AGENCY shall not be a party to any transaction described in 10.1.1 unless:

- (a) the JPA AGENCY enters into the transaction for its own benefit;
- (b) the transaction is fair and reasonable to the JPA AGENCY at the time the transaction is entered into;
- (c) prior to consummating the transaction or any part thereof, the Board authorizes or approves the transaction in good faith, by a vote of a majority of Directors then in office (without counting the vote of the interested Directors), and with knowledge of the material facts concerning the transaction and the interested Director's or Officer's financial interest in the transaction;

- (d) prior to authorizing or approving the transaction, the Board considers and in good faith determines after reasonable investigation that the JPA AGENCY could not obtain a more advantageous arrangement with reasonable effort under the circumstances; and
- (e) the minutes of the Board meeting at which such action was taken reflect that the Board considered and made the findings described in paragraphs (a) through (d) of this Section 10.1.2.

10.1.3 Material Financial Interest

A Director or Officer shall not be deemed to have a “material financial interest” in a transaction:

- (a) that fixes the compensation of a Director as a Director or Officer;
- (b) if the contract or transaction is part of a public program of the JPA AGENCY and it (1) is approved or authorized by the JPA AGENCY in good faith and without unjustified favoritism, and (2) results in a benefit to one or more Directors or their families only because they are in the class of persons intended to be benefited by the program; or
- (c) Where the interested Director has no actual knowledge of the transaction and it does not exceed the lesser of one percent of the gross receipts of the JPA AGENCY for the preceding year or \$100,000.

Section 10.2 Interlocking Directorates

No contract or other transaction between the JPA AGENCY and any agency, firm or association of which one or more Directors are directors is either void or voidable because such Director(s) are present at the Board or Committee meeting that authorizes, approves or ratifies the contract or transaction, if (i) the material facts as to the transaction and as to such Director’s other directorship are fully disclosed or known to the Board or Committee, and the Board or Committee authorizes, approves or ratifies the contract or transaction in good faith by a vote sufficient without counting the vote of the common Director(s) (subject to the quorum provisions of Article 7); or if (ii) the contract or transaction is just and reasonable as to the JPA AGENCY at the time it is authorized, approved or ratified.

Section 10.3 Duty of Loyalty

Nothing in this Article 10 shall be construed to derogate in any way from the absolute duty of loyalty that every Director and Officer owes to the JPA AGENCY.

ARTICLE 11 JPA AGENCY RECORDS, REPORTS AND SEAL

Section 11.1 Minute Book

The JPA AGENCY shall keep a minute book in written form which shall contain a record of all actions by the Board or any committee including (i) the time, date and place of each meeting; (ii) whether a meeting is regular or special and, if special, how called; (iii) the manner of giving notice of each meeting and a copy thereof; (iv) the names of those present at each meeting of the Board or any Committee thereof; (v) the minutes of all meetings; (vi) any written waivers of notice, consents to the holding of a meeting or approvals of the minutes thereof; (vii) all written consents for action without a meeting; (viii) all protests concerning lack of notice; and (ix) formal dissents from Board actions.

Section 11.2 Books and Records of Account

The JPA AGENCY shall keep adequate and correct books and records of account. "Correct books and records" includes, but is not necessarily limited to: accounts of properties and transactions, its assets, liabilities, receipts, disbursements, gains, and losses.

Section 11.3 Joint Powers of Agreement (JPA AGENCY), Other Agreements and Bylaws

The JPA AGENCY shall keep at its principal office, the original or a copy of the JPA Agreement, Interagency Agreements, Other Agreements and Bylaws as amended to date.

Section 11.4 Annual Report; Statement of Certain Transactions

The Board shall cause an annual report to be sent to each Director within 120 days after the close of the JPA AGENCY's fiscal year containing the following information:

- (a) The assets and liabilities of the JPA AGENCY as of the end of the fiscal year;
- (b) The principal changes in assets and liabilities, including trust funds, during the fiscal year;
- (c) The revenue or receipts including that for reserve funds of the JPA AGENCY, both unrestricted and restricted to particular purposes, for this fiscal year;
- (d) The expenses or disbursements of the JPA AGENCY for both general and restricted purposes during the fiscal year;

Section 11.5 Directors' Rights of Inspection

Every Director shall have the absolute right at any reasonable time to inspect the books, records, documents of every kind, and physical properties of the JPA

Comment [A1]: This is important because each director will represent its own water system.

AGENCY. The inspection may be made in person or by the Director's agent or attorney. The right of inspection includes the right to copy and make extracts of documents.

Section 11.6 JPA AGENCY Seal

The JPA AGENCY seal, if any, shall be in such form as may be approved from time to time by the Board. Failure to affix the seal to JPA AGENCY instruments, however, shall not affect the validity of any such instrument.

ARTICLE 12 ALLOCATION OF COSTS, PAYMENT OBLIGATIONS, FINANCE AND ACCOUNTING

Section 12.1 Allocation of Costs

The costs incurred by the Agency in carrying its functions shall be allocated between the Parties as follows XXXXX.

12.1.1 Capital Costs. The capital costs sharing shall apply to the Initial Project Facilities and any future capital costs, including, modification, improvement and minor repair and replacement costs. Following the Construction of the Initial Project Facilities, the Capital Costs apply to any expansion of, addition to or increase of projects Facilities and the Repair and Replacement costs as determined by the Board.

12.1.2 Supplemental Water Purchase Costs. The costs of the annual note payments by the Agency under a Water Purchase Contract Agreement shall be allocated as follows XXX

Section 12.2 Payment Obligations

12.2.1 Payment Obligations. All costs of the Agency shall be annually assessed and a cost schedule revised accordingly. The schedule should generate sufficient revenues to meet the obligations of the Agency for that fiscal year as set forth in the Agency's annual budget. The schedule should include any and all bonds or financing agreements entered into by the Agency. Each Party's water enterprise fund or such other fund as a Party may determine will be responsible for the payment of this annual assessment **whether or not water is available for diversion to projects**, and regardless of the occurrence of any Force Majeure event.

- a) Notwithstanding anything to the contrary herein, each of the Parties shall be individually liable to the other Parties for its failure to pay its respective share of the Agency's annual costs (including but not limited to debt service on any bonds or related obligations). In the event that a Party fails to make any payment of such costs (a "Defaulting Party"), a non-defaulting Party may voluntarily make such payment on behalf of the Defaulting Party, but the Defaulting Party shall remain obligated to reimburse the non-defaulting Party for such advance with interest calculated at one

Comment [A2]: In the contract with AID there should be a provision of payment to AID whether water is available or not. That is a separate issue. But in this case there is a capital cost that has to be paid whether water is available or not.

and one-half the rate of return earned by the treasury of the non-defaulting Party during the time period of the default.

- b) If the Defaulting Party has not repaid the non-defaulting Party for such advance by the agreed payment schedule, the non-defaulting Party may take such legal action as it deems appropriate to enforce payment of such obligation.

The Agency may decide to establish a debt reserve funds for such events and may establish policies for nonpayment and disconnect procedures.

- c) Any payment remaining unpaid by a Party after its due date shall bear interest at the rate and terms established in policies and procedures or Rules and Regulations of the Agency. In the event of such a default, in addition to any other remedy that may be available, the Agency may cease providing water to the Defaulting Party until the delinquent amount with interest has been paid in full and the unused water could be temporarily allocated elsewhere to be used.

Section 12.3 Finance and Accounting

- 12.3.1 **Annual Budget.** Prior to the commencement of each fiscal year, the Board shall adopt a budget, including a projection of Capital Costs, Fixed Operating Costs, Variable Operating Costs and Repair and Replacement Costs for projects for the ensuing fiscal year plus an amount to fund a contingency reserve. The budget also shall include a forecast of the payment obligations for each of the Parties for the subsequent four years. (Preparing a 5 Year Financial Plan/Budget)

If the Board because of a tie-vote or other reason fails to timely approve an annual budget, then the prior year's annual budget (plus a cost of living adjustment) shall continue in effect until superseded by a new Board-approved budget and the former budget shall provide appropriation for ongoing Agency expenditures consistent with that budget, as adjusted.

- 12.3.2 **Budget Reserves and Excess Revenues.** The Board shall determine on an annual basis, prior to the beginning of each fiscal year, a level of reasonable cash reserves to be accumulated by the Agency. The reserve accounts could be those recommended by funding agencies such as, debt reserve, O&M reserve, emergency reserve, future repairs and improvements reserve. These reserves shall be accumulated from revenues collected in excess of all actual costs of the Agency. Once the targeted reserve level is reached, all additional revenues collected in excess of the actual costs of the Agency shall be considered excess revenue and, subject to any limitation in any bond or other financing agreement, carried forward as revenue for the next fiscal year and serve to reduce each Party's respective assessment for such subsequent fiscal year.

- 12.3.3 **Revenue Deficit.** If insufficient revenue is collected by the Agency to satisfy all of its annual costs (other than by reason of a failure of any Party to pay its share

of costs), then such deficiency will be assessed by the Agency against all Parties in the same manner as costs were allocated to each Party for the fiscal year in which such deficit was incurred.

- 12.3.4 **Accounting Procedures.** The Agency shall keep and maintain strict accountability of all funds, receipts and expenses, and shall keep and maintain appropriate records and accounts of all funds, receipts and expenses under this Agreement in accordance with accounting and bookkeeping practices established by, or consistent with, those utilized by the Controller of the State of California for like public entities. In particular, the Treasurer shall comply strictly with requirements of the Act. The Agency shall allow any Party, or any of its employees, accountants, attorneys or agents to review, inspect, copy and audit any such records and accounts, including source documents.

The Agency shall keep and maintain accurate records showing and segregating the Administrative, Management, Operations and Capital Costs of the each Project Facility cost set forth below.

- 12.3.5 **Assets.** The Agency shall maintain up to date records of all its assets including, vehicles, apparatus, equipment and other assets and property contributed by each Party. The Agency shall prepare and annually review its Asset Management Plan.
- 12.3.6 **Expenditures.** The Board shall establish and comply with a system and procedure for the review and approval of Agency expenditures and claims and the drawing and/or signing of Agency warrants or checks. All expenditures shall be consistent with the approved budget, except as otherwise determined by the Board.
- 12.3.7 **Audit.** Annually, biennially, or on any longer period as permitted by law, the Board shall contract with an independent certified public accountant to perform a financial audit of the accounts and records of the Agency. Copies of such audit reports shall be filed with each Party and, if required, with the State Controller within six months of the end of the audited fiscal year, or such other period permitted or required by law.

Section 12.4 Execution of Instruments

The Board, except as otherwise provided in these Bylaws, may by resolution authorize any Officer or agent of the JPA AGENCY to enter into any contract or execute and deliver any instrument in the name of and on behalf of the JPA AGENCY, and such authority may be general or confined to specific instances. Unless so authorized, no Officer, agent, or employee shall have any power or authority to bind the JPA AGENCY by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

Section 12.5 Checks and Notes

Except as otherwise specifically determined by resolution of the Board, or as otherwise required by law, checks, drafts, promissory notes, orders for the

payment of money, and other evidence of indebtedness of the JPA AGENCY shall be signed by the Treasurer and countersigned by the President.

Section 12.6 Deposits

All funds of the JPA AGENCY shall be deposited from time to time to the credit of the JPA AGENCY in such banks, trust companies, or other depositories as the Board may select.

Section 12.7 Gifts

The Board may accept on behalf of the JPA AGENCY any contribution, gift, bequest, or devise for the public purposes of the JPA AGENCY.

ARTICLE 13 AMENDMENTS

Section 13.1 Amendment by Directors

The Board may adopt, amend or repeal bylaws. Such power is subject to the following limitations:

- (a) It requires the vote of a Supermajority Decision, such provision may not be altered, amended or repealed except by the vote of such Supermajority.
- (b) If bylaws are adopted, amended or repealed at a meeting of the Board, such action is authorized only at a duly called and held meeting for which written notice of such meeting, setting forth the proposed bylaw revisions with explanations therefor, is given in accordance with these Bylaws, unless such notice is waived in accordance with these Bylaws.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting Secretary of [Name of JPA AGENCY], a California JPA AGENCY; that these Bylaws are the Bylaws of this JPA AGENCY as adopted by the Board of Directors on _____; and that these Bylaws have not been amended or modified since that date.

Executed on _____ at _____, California.

[NAME]
Secretary