

JOINT POWERS AGREEMENT FOR FORMATION AND OPERATION OF A SGMA GROUNDWATER SUSTAINABILITY AGENCY IN AMADOR COUNTY

This Joint Powers Agreement ("Agreement") is entered into by and among the County of Amador, Amador Water Agency, and Jackson Valley Irrigation District, each a local agency formed under California law, who are called collectively the "Parties" and individually a "Party" herein.

RECITALS

The Parties make this Agreement with reference to the following facts and circumstances, among others:

- A. Each of the Parties is a public agency duly organized and operating under the laws of the State of California, and each entity is empowered under California Government Code sections 6500 and following to enter into and exercise joint powers under this Agreement.
- B. In 2014, the California Legislature passed the Sustainable Groundwater Management Act ("SGMA") to provide local agencies the authority to manage and protect groundwater in a sustainable manner, with limited state intervention permitted only if local control is not exercised to protect groundwater resources.
- C. Each of the Parties overlies the Basin and is authorized by SGMA and other laws to manage the groundwater resources underlying its territory.
- D. The Parties, by and through their respective governing bodies, have determined that it would be mutually beneficial to enter into this Agreement to create a joint powers authority for the purposes of establishing a GSA to govern the portion of the Basin underlying Amador County in accordance with SGMA.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth in this Agreement, the Parties agree as follows:

1. Definitions. For purposes of this Agreement, the words and phrases below will have the following meanings:
 - (a) Agreement. This Joint Powers Agreement for Formation and Operation of a SGMA Groundwater Sustainability Agency in Amador County.
 - (b) Authority. The Amador County Groundwater Management Authority created by this Agreement.
 - (c) Basin. The groundwater basin identified by DWR Bulletin 118 as the Cosumnes Subbasin of the San Joaquin Valley Groundwater Basin, Basin Number 5-22.16.

- (d) Board. The Board of Directors of the Authority.
- (e) Bulletin 118. The current version of Bulletin 118 produced by DWR.
- (f) DWR. The California Department of Water Resources.
- (g) Effective Date. The date on which this Agreement has been approved and executed by all of the Parties.
- (h) GSA. A groundwater sustainability agency as authorized and defined by SGMA.
- (i) GSP. A groundwater sustainability plan as authorized and defined by SGMA.
- (j) SGMA. The Sustainable Groundwater Management Act of 2014, Water Code, sections 10720 and following, as it may be amended by the Legislature from time to time.

2. Creation of Authority.

- (a) The Amador County Groundwater Management Authority is hereby created as a joint powers agency under the provisions of the Joint Exercise of Powers Act set forth in Government Code section 6500 and following (the "Act"). The Authority is a public entity separate from the Parties and is formed in Amador County for purposes of implementing SGMA, managing the Basin in accordance with SGMA, and for such other legally-authorized purposes as the Parties may unanimously agree to in writing. Pursuant to Government Code section 6509, the Amador Water Agency is the designated agency with respect to the Authority's exercise of powers.
- (b) Within 30 days of the Effective Date of this Agreement, the Authority shall file a Notice of Joint Powers Agreement with the California Secretary of State in accordance with Government Code section 6503.5 and comply with all other formation requirements under California law.
- (c) As soon after formation as practical, the Authority shall take proceedings under SGMA to designate itself as the GSA for the portion of the Basin underlying Amador County.
- (d) Any Party shall have the ability to withdraw by providing sixty (60) days written notice of its intention to withdraw. Said notice shall be given to the Board and to each of the other Parties. A Party shall not be fiscally liable for the adopted budget provided that the Party provides written notice within thirty (30) days of receiving the proposed budget. Any Party so withdrawing shall, however, waive, forfeit, and relinquish any claim or right to any funds or other property, rights, or interests of the Authority. In addition, withdrawal by a Party shall not terminate, or relieve the withdrawing Party from, any express contractual obligation to the Authority, another Party or any third party incurred or encumbered while the

withdrawing Party was a member of the JPA. In the event of a withdrawal, this Agreement shall continue in full effect among the remaining Parties.

- (e) The Board may vote to terminate any Party for failure to meet its funding obligations pursuant to the approved budget set forth in this Agreement or as adopted by the Board from time to time. In the event of a termination, this Agreement shall continue in full effect among the remaining Parties.
3. Purpose of Authority. This Agreement provides for the creation of a public entity separate and apart from the Parties to administer this Agreement for the purposes of mutually managing the groundwater resources within the portion of the Basin underlying Amador County, including, without limitation, forming a GSA, preparing a GSP, and implementing SGMA as required.
4. Powers of Authority. The Authority is hereby authorized, in its own name, to do all acts necessary for the exercise of its authority to accomplish its purposes under this Agreement including, but not limited to, any or all of the following:
- (a) To make and enter into contracts.
 - (b) To prepare reports, studies, models, and other documents for accomplishing its purposes and for applying for and accepting grants, loans, and contributions.
 - (c) To employ staff and to contract for services directly or indirectly related to its purposes.
 - (d) To receive contributions and donations of property, goods, funds, services, and other forms of assistance from any source, including from the Parties.
 - (e) To acquire and condemn property for purposes of the Authority.
 - (f) To sue and be sued in its own name.
 - (g) To incur debts, liabilities, or obligations, subject to the limitations set forth herein.
 - (h) Perform all acts necessary for purposes of SGMA implementation, Basin management, and JPA administration consistent with this Agreement.
 - (i) In accordance with paragraph 2(d) of this Agreement, the Authority's powers shall be exercised subject only to the restrictions upon the manner of exercising such powers as are imposed upon the Amador Water Agency in the exercise of its powers.
 - (j) Notwithstanding the foregoing, the Authority shall have any additional powers conferred under the Act, insofar as such additional powers may be necessary or desirable to accomplish the purposes of the Authority as set forth herein.

5. Use of Public Funds and Insurance.

- (a) The Authority is authorized to use, for its purposes, public funds, property, and other resources received from the Parties or any other sources. Where applicable, the Authority's Board may permit one or more of the Parties to provide in-kind services, including the use of property and staff members.
- (b) The Authority shall obtain insurance to cover the assets and operations of the Authority, including, but not limited to, general liability and officers and directors liability coverages.

6. Governance.

- (a) Each Party shall each appoint a member of its governing body and its executive officer to serve on the Authority's Board. Each Party also shall appoint an alternate from its governing body to serve in the absence of its appointed governing body member. The governing body member representative, executive officer, and alternate shall each serve at the pleasure of the appointing Party and each may be removed and replaced at any time by the appointing Party's governing body, with a replacement designated by written notice to the other parties.
- (b) The Board shall fix the hour, date, and place for its regular meetings. The Board will meet no less frequently than quarterly, unless the Board decides otherwise.
- (c) Upon a majority vote of the Board, other eligible public agencies may be added as Parties to this Agreement, and each such Party shall acknowledge its agreement with the terms hereof by executing this Agreement upon authorization by resolution for such execution adopted by its governing body.
- (d) After the Effective Date and in compliance with applicable legal requirements, the Board shall consider and adopt bylaws for the Authority.
- (e) Each Party shall have one vote, which shall be cast by the Party's appointed governing body member, unless that member designates the Party's executive officer to cast the vote.
- (f) A simple majority of the Board shall constitute a quorum. A simple majority vote of the Board shall be required for action to be taken. However, any action that requires the expenditure by the Authority of more than \$10,000.00, unless authorized by the approved budget, shall first require approval from each Party's governing board before it is effective.
- (g) The Board may, in its sole discretion, form advisory or such other committees as it deems appropriate to advise the Board or to assist in the conduct of the Authority's business.

7. Term and Termination; Disposition of Assets

- (a) The Authority shall commence its existence on the Effective Date and shall continue in existence unless terminated by the governing body of each of the Parties then a party to this Agreement. Regardless of such termination, the Authority and this Agreement shall continue to exist for the sole purposes of disposing of liabilities, distributing funds, property and other assets (such funds, property and/or other assets, collectively, the "Authority Assets"), and all other functions necessary to conclude the business of the Authority.
- (b) Upon termination of this Agreement and after the payment of all obligations of the Authority, any Authority Assets remaining shall be distributed to the Parties in proportion to the contribution made by each Party toward the funding of the Authority, excepting from the distribution calculation those funds contributed for projects solely benefiting the contributing Party which remaining funds, if any, shall be returned to the contributing party. The Authority shall cease to exist when the Authority Assets have been distributed according to the provisions contained in this Section, this Agreement generally, and the Joint Exercise of Powers Act (Gov. Code, sections 6500 et seq.).

8. Administration and Officers.

- (a) The officers of the Authority are the Chair, Vice-Chair, and Secretary. The Board shall, at its first meeting and thereafter at its first meeting following January 1 of each succeeding year, elect a Chair and Vice-Chair from among its members. The Vice-Chair shall assume the responsibilities of the Chair in the absence of the Chair.
- (b) The Board may appoint an Executive Director under whose general supervision and control the business of the Authority shall be conducted. The Executive Director may be an employee of a Party. The Executive Director has such powers and duties as may be prescribed by the Board or the bylaws. The Executive Director's compensation, if any, shall be determined by the Board of Directors. The Board also may hire employees to operate the Authority or obtain the services of one or more Party's employees for such purposes, and, the Board or if employed, the Executive Director, may direct such staff and delegate such duties to them in accordance with applicable law, Board resolutions and policies, and the bylaws.
- (c) The Agency may appoint general legal counsel, who shall serve at the pleasure of the Board by a vote of the Board.
- (d) The Board shall appoint a Secretary, Auditor, and Treasurer.
- (e) The Secretary shall: (i) keep or cause to be kept, at the principal executive office or such other place as the Board may direct, a book of minutes of all meetings of

actions of the Board and any standing committees of the Authority, including stating the type of meeting, when and where held, the notice given, the names of those present, and a summary of the proceedings of such meetings; and (ii) give, or cause to be given, notice of all meetings of the Board and any committees of the Authority required by law or the bylaws to be given. The Board also may prescribe other powers and duties to be performed by the Secretary from time to time.

- (f) The Board shall designate a qualified person to act as the Treasurer of the Authority. If the Treasurer is not an officer, the Authority may pay reasonable compensation for the Treasurer's services either directly to that person or by reasonable charge against the Authority for benefit of the Party providing such services. The Treasurer shall have charge of the depositing and custody of all funds held by the Authority. The Treasurer also shall perform such other duties imposed by law, including those duties provided in Government Code section 6505.5, and that may be prescribed by the Board or the bylaws.

9. Fiscal Year and Accounting.

- (a) For the purposes of this Agreement, the term "Fiscal Year" shall mean the fiscal year as established from time to time by the Authority, being, at the date of this Agreement, the period from January 1 to and including the following December 31, except for the first Fiscal Year, which shall be the period from the date of this Agreement to December 31, 2017.
- (b) The Board shall establish and maintain such funds and accounts as may be required by Generally Accepted Accounting Principles and by Federal and State statute, regulation and guidelines, as applicable.
- (c) The Authority shall comply with the accounting and auditing requirements contained in California Government Code sections 6505-6505.6.
- (d) The Board will appoint one of its officers to serve as Auditor of the Authority. The auditor shall comply with the duties and responsibilities of the office as set forth in subdivisions (a) to (d), inclusive, of California Government Code section 6505.5.
- (e) Budgets. At least ninety (90) days prior to the commencement of each fiscal year, the Treasurer shall prepare, for consideration by the Board for the ensuing fiscal year, a general budget for Authority operations and administration, including capital expenditures. The budget presented to the Board for consideration shall be presented in a two-step process providing for at least one preliminary review by the Board prior to presentation for approval by the Board.

(1) Expenditures for the Approved Budget. No expenditure in excess of the total amount of expenditures budgeted in any approved budget shall be made without the approval of the Board.

(2) Contributions; Payments and Advances. Use of Personnel; Equipment or Property; Exchange of Services. It is hereby agreed that, subject to approval of the Board:

(i) contributions from a Party's treasury may be made for any of the purposes set forth in this Agreement; provided, however, that no Party shall be required by the Authority to contribute funds to or undertake liability on behalf of the Authority without the consent of the Party;

(ii) payments of public funds of a Party may be made to defray the cost of any purposes of the Authority;

(iii) a Party may make advances of public funds to the Authority;

(iv) the Parties may exchange services without payment of any consideration other than such services;

(v) personnel, equipment or property of a Party may be used in lieu of other contributions or advances; and

(vi) the Parties must agree in advance upon the value to be assigned the personnel, equipment, property or services, with respect to any such in-kind contributions or advances.

(3) Parties' Cost Shares. Unless otherwise agreed to by the Jackson Valley Irrigation District, its share of each budget or any other expenditures authorized under this Agreement shall be limited to five percent (5%) of the approved budget or expenditure. The County of Amador and Amador Water Agency shall allocate and be responsible for the remaining 95% of the approved budget or expenditures of the Authority on a pro rata basis.

10. Application of Laws to Authority Functions. The Authority shall comply with all applicable laws in the conduct of its affairs, including, but not limited to, the Joint Exercise of Powers Act (Gov. Code sections 6500, et seq.); the Ralph M. Brown Act (Gov. Code sections 54950, et seq.); the California Public Records Act (Gov. Code sections 6250, et seq.), and conflict of interest laws and regulations (including Gov. Code sections 1090, et seq.; the Political Reform Act, Gov. Code sections 87100, et seq.; and the regulations of the Fair Political Practices Commission concerning disclosure and disqualification, 2 California Code of Regulations sections 18700, et seq.).

11. Advisors and Consultants. The Board may retain other advisors and consultants to assist the Board in carrying out the Authority's purposes.

12. Privileges and Immunities. All of the privileges and immunities from liabilities, exemptions from laws, ordinances and rules, all pension, relief, disability, workers'

compensation, and other benefits that may apply to the activities of officers, agents or employees of public agencies when performing their respective functions within their respective territorial limits, shall apply to them to the same degree and extent while engaged as Parties of the Authority or otherwise as an officer, director, or other representative of the Authority or while engaged in the performance of any of their functions or duties under the provisions of this Agreement.

13. Liability.

- (a) The debts, liabilities, and obligations of the Authority shall be the debts, liabilities, or obligations of the Authority alone, and not any of the Parties of this Agreement. The Parties do not intend hereby to be obligated either jointly or severally for the debts, liabilities or obligations of the Agency, except as may be specifically provided for in California Government Code Section 895.2 as amended or supplemented.
- (b) The Authority, and those persons, agencies, and instrumentalities used by it to perform the functions authorized herein, whether by contract or otherwise, shall be exclusively liable for any and all injuries, costs, claims, liabilities, damages of whatever kind to any person arising from or related to activities of the Authority.
- (c) To the fullest extent permitted by law, the Authority shall hold harmless and indemnify the Parties, and each of them, including their officers, employees, and agents from any claim or liability arising from acts or omissions of the Authority in pursuit of this Agreement, and in so doing, shall provide Parties, and each of them, with legal defense of any and all claims or liabilities and shall pay reasonable attorney's fees and costs incurred in providing such defense. Notwithstanding the foregoing, the sole negligence, gross negligence, or intentional acts of any Party is exempted from this Section 13.
- (d) Funds of the Authority may be used to defend, indemnify, and hold harmless the Authority, each Party, and any officers, agents, and employees, for their actions taken within the scope of their duties while acting on behalf of the Authority.

14. Entire Agreement. It is understood and agreed that the entire bargain between the Parties is contained herein and that this Agreement supersedes all oral agreements and negotiations between the Parties relating to the subject matter hereof. All items and exhibits referred to in this Agreement are incorporated or attached and are deemed to be part of this Agreement.

15. Severability. Should any part, term, or provision of this Agreement be determined by a court to be illegal or in conflict with any law of the State of California or otherwise be rendered unenforceable or invalid, the validity of the remaining portions or provisions of the Agreement shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law and shall be interpreted and construed consistent with the intent of the Agreement.

16. Amendment. This Agreement may be modified at any time by written amendment executed by the Parties.
17. Effective Date. The effective date ("Effective Date") of this Agreement shall be the first day of the month following the date on which the last of the Parties adopt and sign this Agreement.
18. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the Parties hereto. Except to the extent expressly provided herein, no Party may assign any right or obligation hereunder without the consent of the other Parties.
19. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.
20. Headings. The section headings herein are for convenience only and are not to be construed as modifying or governing the language in the section to which referred.
21. Consent; Choice of Law; Venue. Wherever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld. This Agreement is made in accordance with California law and is to be construed thereunder. Venue for litigation related to this Agreement shall be in the Superior Court of Amador County.
22. Notices. Any notice, demand, invoice or other communication required or permitted to be given under this Agreement must be in writing and delivered either: (a) in person, (b) by prepaid, first class U.S. mail, (c) by facsimile transmission or email with delivery to the other Party confirmed by a successful-delivery confirmation receipt, or (d) by a nationally-recognized commercial overnight courier service that guarantees next day delivery and provides a receipt. Such notices shall be addressed as follows:

If to Amador County:

Attn: CHUCK FLEW, CAO
AMADOR COUNTY ADMINISTRATION CTR.
810 COURT STREET
JACKSON, CA 95642
 Facsimile: (209)251-0619
 Email: ciley@amador.gov.org

If to Amador Water Agency:

Attn: _____

If to Amador Water Agency:

Attn: Gene Mincio, GM
Amador Water Agency
12800 Ridge Rd
Seattle Creek, CA 95685
Facsimile: (209) ~~274~~ 257-6265
Email: gmincio@amadorwater.org

If to Jackson Valley Irrigation District:

Attn: Steven Fredrick - GM
JVID
6755 Lake Amador Drive
Ferne, CA 95640
Facsimile: (209) 274-6755
Email: steve@jvid.org

Notice given as above will be deemed given (a) when delivered in person, (b) three days after deposited in prepaid, first class U.S. mail, (c) upon receipt of the facsimile machine or email successful-delivery confirmation, or (d) on the date of delivery as shown on the overnight courier service receipt. Any Party may change its contact information by notifying the other Parties of the change in the manner provided above.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date set forth herein.

COUNTY OF AMADOR:

By: Richard M. Foster

Dated: 2/16/17

ATTEST:

Jennifer Burns

AMADOR WATER AGENCY:

By: Gay Thomas

Dated: Feb 9, 2017

ATTEST:

[Signature]

JACKSON VALLEY IRRIGATION DISTRICT:

By: Gay Julius

Dated: Feb 8, 2017

ATTEST:

Melinda Hammond

EXHIBIT A

Map of the Boundaries of the Agreement

Exhibit A

