

Joint Powers Agreement Forming the Ukiah Valley Basin Groundwater Sustainability Agency

This Joint Powers Agreement (“Agreement”) is made and entered into by and among the Russian River Flood Control and Water Conservation Improvement District (“RRFC”), and the Upper Russian River Water Agency, both of which are California special districts, the City of Ukiah, a municipal corporation, and the County of Mendocino, a political subdivision of the State of California, which are together referred to herein individually as “Member” and collectively as “Members,” for the purposes of forming a joint powers agency, to be known as the Ukiah Valley Basin Groundwater Sustainability Agency, to serve as the Groundwater Sustainability Agency in the Ukiah Valley basin.

Recitals

A. Each of the Members is a local agency, as defined by the Sustainable Groundwater Management Act of 2014 (Division 2, Part 2.74 (commencing with §10720), Part 5 (commencing with Section 4999), Part 5.1 (commencing with Section 5100) and Part 5.2 (commencing with Section 5200) of the California Water Code Section *et seq.*; “SGMA”), duly organized and existing under, and by virtue, of the laws of the State of California, and each Member has water supply, water management or land use responsibilities within the Ukiah Valley.

B. SGMA seeks to provide sustainable management of groundwater basins, enhance local management of groundwater, establish minimum standards for sustainable groundwater management, and provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater.

C. Section 10720.7 of SGMA requires all basins designated as high or medium priority basins by the Department of Water Resources (“DWR”) in its Bulletin 118 be managed under groundwater sustainability plans, or coordinated groundwater sustainability, plans pursuant to SGMA.

D. The Ukiah Valley basin (designated basin number 1-52 in Bulletin 118; the “Basin”) is designated as a medium-priority basin.

E. The Members have determined that the sustainable management of the Basin pursuant to SGMA may best be achieved through the cooperation of the Members operating through a joint powers agency.

F. The Joint Exercise of Powers Act (Chapter 5 (commencing with § 6500) of Division 7, of Title 1 of the California Government Code; the “Act”), authorizes two or more public agencies to, by agreement, jointly exercise any power held in common by agencies entering into such an Agreement and to exercise additional powers granted under the Act.

G. Based on the foregoing legal authority, the Members desire to create a joint powers agency for the purpose of taking all actions deemed necessary by the joint powers agency to ensure sustainable management of the Basin, as required by SGMA.

H. The governing board of each Member has determined it to be in the Member's and in the public's best interest that this Agreement be executed.

Terms of Agreement

Article 1. Definitions

As used in this Agreement, unless context requires otherwise, the meanings of the terms set forth below shall be as follows:

1.1. "Act" means the Joint Exercise of Powers Act, set forth in Chapter 5 of Division 7 of Title 1 of the Government Code, sections 6500, *et seq.*, including all laws supplemental thereto.

1.2. "Agency" means the Ukiah Valley Basin Groundwater Sustainability Agency.

1.3. "Agreement" means this joint powers agreement, which creates the Ukiah Valley Basin Groundwater Sustainability Agency.

1.4. "Basin" means the Ukiah Valley basin, as shown on the map attached as Exhibit A, which is incorporated herein by this reference.

1.5. "Board of Directors" or "Board" means the governing body of the Agency as established by Article 7 of this Agreement.

1.6. "Board Member" or "Director" shall mean a member of the Agency's Board of Directors.

1.7. "Committee" shall mean any committee established pursuant to Article Twelve (12) of this Agreement.

1.8. "Effective Date" means the date on which the last Member executes this Agreement.

1.9. "Fiscal Year" means July 1 through June 30.

1.10. "GSA" shall mean a groundwater sustainability agency.

1.11. "GSP" shall mean a groundwater sustainability plan.

1.12. "Member" has the meaning assigned to it in the Preamble and further means each party to this Agreement that satisfies the requirements of Section 6.1 of this Agreement, including any new members, as may be authorized by the Board pursuant to Section 6.2 of this Agreement.

1.13. "Member Director" means a director or alternate director appointed by a Member pursuant to Article 7 of this Agreement.

1.14. “Member’s Governing Body” means the board of directors or other voting body that controls the individual public agencies that are Members.

1.15. “RRFC” has the meaning assigned to it in the Preamble of this Agreement.

1.16. “SGMA” has the meaning assigned to it in Recital A.

1.17. “Special Project” means a project undertaken by some, but not all Members of the Agency, pursuant to Article 14 of this Agreement.

1.18. “Stakeholder Director” means a Director appointed pursuant to Article 6 that represents stakeholder interests.

1.19. “State” means the State of California.

Article 2. Creation of a Separate Entity

2.1. Upon the effective date of this Agreement, Ukiah Valley Basin Groundwater Sustainability Agency (“Agency”) is hereby created. Pursuant to the provisions of the Act, the Agency shall be a public agency separate from its members. The principal office shall be provided for in the Bylaws.

2.2. The boundaries of the Agency shall be as shown on the map on Exhibit A, attached and incorporated herein by this reference. The boundary shown on Exhibit A is an updated version of the Bulletin 118 boundary, based on the 2005 Larsen and Kelsey Map approved by the Department of Water Resources on January 26, 2017.

Article 3. Term

3.1. This Agreement shall become effective upon execution by each of the Parties and shall continue in full force and effect until terminated pursuant to the provisions of Article 17.

Article 4. Purpose of the Agency and this Agreement

4.1. The purpose of this Agreement is to create a joint powers agency separate from its Members that will elect to be the GSA for the entire Basin. The purpose of the Agency is to (a) develop, adopt, and implement a GSP for the Basin in order to implement SGMA requirements and achieve the sustainably goals outlined in SGMA; and (b) involve the public and area stakeholders through outreach and engagement in developing and implementing the Ukiah Valley Basin Groundwater Sustainability Plan.

Article 5. Powers of the Agency

5.1. Restrictions on Exercise of Powers. For purposes of Government Code Section 6509, the powers of the Agency shall be exercised subject to the restrictions upon the manner of exercising such powers as are imposed on the County of Mendocino, and in the event of the withdrawal of the County of Mendocino as a Member under this Agreement, then the powers of the Agency shall be exercised subject to the restrictions upon the manner of exercising such powers as are imposed on the City of Ukiah.

5.2. Powers. Subject to the limitations addressed herein, the Agency shall have the power in its own name to exercise any and all common powers of the Members reasonably related to the purposes of the Agency, including but not limited to, the following powers, together with such other powers as are expressly set forth in the Act and SGMA:

5.2.1. To exercise all powers afforded to a GSA pursuant to, and as permitted by, SGMA upon electing in accordance with SGMA to become the GSA for the Ukiah Valley Basin.

5.2.2. To develop, adopt and implement a GSP for the Basin pursuant to SGMA.

5.2.3. To adopt rules, regulations, policies, bylaws and procedures governing the operation of the Agency; and adoption and implementation of a GSP for the Basin.

5.2.4. To obtain rights, permits and other authorizations for, or pertaining to, implementation of a GSP for the Basin; and to exercise the common powers of the Members, as directed by the Board, in developing and implementing a GSP for the Basin.

5.2.5. To perform other ancillary tasks relating to the operation of the Agency pursuant to SGMA, including, without limitation, environmental review, engineering and design.

5.2.6. To employ, designate or otherwise contract for the services of agents, officers, employees, attorneys, engineers, planners, financial consultants, advisors, independent contractors, technical specialists and other consultants.

5.2.7. To make and enter into contracts necessary to the full exercise of the Agency's power.

5.2.8. To investigate legislation and proposed legislation affecting the Basin and to make appearances regarding such matters.

5.2.9. To acquire property and other assets by grant, lease, purchase, bequest, devise, gift or eminent domain; and to hold, enjoy, lease, sell, or otherwise dispose of property, including real property, water rights and personal property, necessary for the full exercise of the Agency's powers.

5.2.10. To cooperate, act in conjunction and contract with the United States, the State of California, or any agency thereof, counties, municipalities, public and private corporations of any kind (including, without limitation, investor-owned utilities), and individuals, or any of them, for any and all purposes necessary or convenient for the full exercise of the powers of the Agency.

5.2.11. To incur debts, obligations, and liabilities; to issue bonds, notes, certificates of participation, guarantees, equipment leases, reimbursement obligations and other indebtedness, and, to the extent provided for in a duly adopted Agency, to impose assessments, groundwater extraction fees or other charges, and other means of financing the Agency as authorized by Chapter 8 of SGMA (commencing at Section 10730 of the Water Code).

5.2.12. To apply for, accept, and receive contributions, grants or loans from any public or private agency or individual in the United States, or any department, instrumentality, or agency thereof for the purpose of financing the Agency's activities.

5.2.13. Invest money that is not needed for immediate necessities, as the Board of Directors determines advisable, in the same manner and upon the same conditions as other local entities in accordance with Section 53601 of the California Government Code, as that section now exists, or may hereafter be amended.

5.2.14. Reimburse Board Members for the actual amounts of reasonable and necessary expenses incurred in attending the Agency's meetings or any committee of the Agency in performing the duties of their officer, subject to Board of Directors policy and budget authorization.

5.2.15. To sue and be sued in the Agency's own name; provided that a Member may determine not to contribute to the expenses of litigation initiated by the Agency.

5.2.16. To provide for the prosecution of, defense of, or other participation in actions or proceedings at law or in public hearings in which the Members, pursuant to this Agreement, may have an interest; and may employ counsel and other expert assistance for these purposes.

5.2.17. To exercise the common powers of its Members to develop, collect, provide and disseminate information that furthers the purposes of the Agency, including, but not limited to the operation of the Agency and adoption and implementation of a Groundwater Sustainability Plan for the Basin, to the Members' legislative, administrative, and judicial bodies, as well as the public generally.

5.2.18. Employ or retain a full time or part time supporting staff.

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

5.3. The Agency and all of its Members confirm that nothing contained herein shall grant the Agency any power to alter any water right, contract right, or any similar right held by its Members, or amend a Member's water delivery practice, course of dealing, or conduct without the express consent of the holder thereof.

Article 6. Membership

6.1. Initial Members. The initial Members of the Agency shall be the County of Mendocino, City of Ukiah, Russian River Flood Control and Water Conservation Improvement District, and the Upper Russian River Water Agency.

6.2. New Members. Additional Parties may join the Agency and become a Member provided that the prospective new member: (a) is eligible to join a GSA as provided by SGMA, (b) possesses powers common to all other Members, and (c) receives unanimous consent of the existing Members, evidenced by the execution of a written amendment to this Agreement signed by all Members, including the additional public agency. Additional Stakeholders Directors may be created by the execution of a written amendment to this Agreement signed by all Members.

Article 7. Agency Board of Directors

7.1. Formation of the Board of Directors. The Agency shall be governed by a Board of Directors (“Board of Directors” or “Board”). The Board shall be composed of six (6) Directors consisting of the following representatives, who shall be appointed in the manner set forth in Section 7:

7.1.1. One (1) representative appointed by the governing board of each Member, who shall be a member of the governing board of the Member (each, a “Member Director”).

7.1.2. Two (2) Stakeholder Directors, one (1) of which shall be representative of agricultural stakeholders and interests within the Basin; and one (1) of which shall be representative of tribal stakeholders and interests within the Basin. The two (2) Stakeholder Directors shall meet the following qualifications: ¶

(a) One (1) Agricultural Stakeholder Director. The Agricultural Stakeholder Director shall meet the following criteria, determined at the sole discretion of the Board Members: (1) be a resident of Mendocino County; (2.a) own/ lease real property in active commercial agricultural production overlying the Basin or (2.b) be an employee of a commercial agricultural production operation overlying the basin involved with water use decisions and (3) extract groundwater from the Basin for the irrigation/frost protection of at least fifteen (15) acres of agricultural crops in commercial operation. The Agricultural Stakeholder may not be a party to any pending litigation against the Agency or any of its Members.

(b) One (1) Tribal Stakeholder Director shall be appointed by the six tribes exercising jurisdiction over Indian lands within the Ukiah Valley Basin identified as Redwood Valley Rancheria, Coyote Valley Reservation, Pinoleville Pomo Nation, Potter Valley Rancheria, Guidiville Rancheria and the Hopland Reservation.

7.1.3. Relationship of Members. The Upper Russian River Water Agency is a joint powers authority consisting of several water districts within the Ukiah Valley and the RRFC. For purposes of the Agency, the RRFC desires to be a separate member of the Agency with a separate vote, and as such, will not take part in any action or discussion, and shall not vote on any item of the Upper Russian River Water Agency related to the Agency. The abstention of the RRFC from such agenda items of the Upper Russian River Water Agency shall be separately reflected in documents of the Upper Russian River Water Agency. Should the RRFC fail to abstain from taking part in any vote relating to the Agency before the Upper Russian River Water Agency, it shall not be entitled to vote on that matter when it comes before the Agency.

Members of the Upper Russian River Agency are also contemplating the consolidation of all members of the joint powers authority into a single water district. Should such consolidation occur, this JPA shall be amended to reflect the consolidation of members.

7.2. Duties of the Board of Directors. The business and affairs of the Agency, and all of the powers of the Agency, including without limitation all powers set forth in Article 5, are reserved to and shall be exercised by and through the Board of Directors, except as may be expressly delegated to the Executive Director or others pursuant to this Agreement, Bylaws, or by specific action of the Board of Directors.

7.3. Appointment of Directors. The Directors shall be appointed as follows:

7.3.1. Member Directors. Each Member Director must sit on the governing board of the Member and be appointed by that governing board by Resolution, which Resolution shall be transmitted to the Secretary of the Agency following adoption by the Member.

7.3.2. Stakeholder Directors. The two (2) Stakeholder Directors shall be appointed as follows:

(a) One (1) stakeholder shall be chosen by the Member Directors to represent agricultural interests within the Ukiah Valley Groundwater Basin. This stakeholder shall meet the qualifications as described in 7.1.2. (a). This stakeholder shall be selected from a list of three (3) nominations submitted from the Mendocino County Farm Bureau, but the three (3) nominees need not be a member of the organization. Nominees shall be submitted to the Member Directors pursuant to a process specified in the Bylaws, unless directed otherwise by the Member Directors. The Member Directors shall consider the nominees at a regular meeting of the Board and shall appoint the Agricultural Stakeholder Director upon simple majority vote of all Member Directors.

(b) Tribal Stakeholder Director. The Member Directors shall confirm the nomination for the Tribal Stakeholder Director submitted by the six (6) Tribes within the Ukiah Valley. The Member Directors shall confirm the nominee at a regular meeting and shall appoint the Tribal Stakeholder Director upon simple majority vote of all Member Directors.

7.4. Alternate Directors. Each Member may also appoint one (1) Alternate Director to the Board of Directors, and an Alternate Director shall be appointed for each Stakeholder Director. All Alternate Directors shall be appointed in the same manner as set forth in Section 7.3. Alternate Directors shall have no vote, and shall not participate in any discussions or deliberations of the Board unless appearing as a substitute for a Director due to absence or conflict of interest. If the Director is not present, or if the Director has a conflict of interest which precludes participation by the Director in any decision-making process of the Board, the Alternate Director appointed to act in his/her place shall assume all rights of the Director, and shall have the authority to act in his/her absence, including casting votes on matters before the Board. Each Alternate Director shall be appointed prior to the third meeting of the Board. Alternate Directors are encouraged to attend all Board meetings and stay informed on current issues before the Board. Alternate Board Members have no vote at Board of Director meetings if the Board Member is present. If the Board Member is not present, the Alternate Board Member shall be entitled to participate in all respects as a regular Board Member.

7.5. Terms of Office. The term of office for each member of the Agency's Board of Directors is two (2) years. Each member of the Board of Directors shall serve at the pleasure of the appointing Member and may be removed from the Board of Directors by the appointing members at any time. If at any time a vacancy occurs on the Board of Directors, a replacement shall be appointed to fill the unexpired term of the previous Board Member, pursuant to Article 7 and within ninety (90) days of the date that such position becomes vacant.

7.6. Removal of Board Members. Board Members and Alternate Board Members shall serve at the pleasure of their appointing Member's governing board and may be removed or replaced at any time. A Board Member that no longer meets the qualifications set forth in section 7.1 is automatically removed from the Agency Board of Directors. Upon removal of a Board Member, the Alternate Board Member shall serve as a Board Member until a new Board Member is appointed by the Member. Members must submit any changes in Board Member or Alternate Board Member positions to the Secretary in writing and signed by the Member. A Stakeholder Director may be removed or reappointed by a simple majority vote of all Member Directors.

7.7. Vacancies. A vacancy on the Board of Directors shall occur when a Director resigns or reaches the end of that Director's term, as set forth in Section 7.5. For Member Directors, a vacancy shall also occur when he/she is removed by his/her appointing Member. For Stakeholder Directors, a vacancy shall also occur when the Stakeholder Director is removed, as set forth in Section 7.5. Upon the vacancy of a Member Director, the Alternate Director shall serve as Director until a new Director is appointed, as set forth in Section 7.3, unless the Alternate Director is already serving as a Member Director in the event of a prior vacancy, in which case, the seat shall remain vacant until a replacement Director is appointed as set forth in Section 7.3. Members shall submit any changes in Director or Alternate Director positions to the Board of Directors or Executive Director by written notice, signed by an authorized representative of the Member. The written notice shall include a Resolution of the governing board of the Member directing such change in the Director or Alternative Director position.

7.8. Adjustment to Composition of the Board of Directors. Should the circumstances change in the future, any person or entity may petition the Members hereto to amend this Agreement so as to add or delete representatives to the Governing Board to accurately reflect groundwater production within the boundaries of the authority.

Article 8. Agency Meetings

8.1. Initial Meeting. The initial meeting of the Agency's Board of Directors shall be called by the County of Mendocino and held in the Mendocino County Board of Supervisors Chambers, 501 Low Gap Road, Ukiah, California within 60 days of the effective date of this Agreement. All Members shall be required to attend the initial meeting.

8.2. Time and Place. The Board of Directors shall provide in its adopted bylaws or by other means authorized or required by law, for the time and place for holding regular meetings, at least quarterly, and at such other times as determined by the Board of Directors.

8.3. Conduct. All meetings of the Governing Board shall be noticed, held, and conducted in accordance with the Ralph. M. Brown Act to the extent applicable. Board Members and Alternate Board Members may use teleconferencing in connection with any meeting in conformance with and to the extent authorized by the applicable laws.

8.4. Local Conflict of Interest Code. The Board of Directors shall adopt a local conflict of interest code pursuant to the provisions of the Political Reform Act of 1974 (Government Code sections 81000, *et seq.*).

Article 9. Board of Directors Voting

9.1. Quorum. A majority of the members of the Board of Directors shall constitute a quorum for purposes of transacting business, except less than a quorum may vote to adjourn a meeting.

9.2. Director Votes. Each member of the Board of Directors of the Agency shall have one (1) vote. Except as otherwise specified in this Agreement, all affirmative decisions of the Board of Directors shall require the affirmative vote of a simple majority of all Directors participating in voting on a matter of Agency business; provided that if a Director is disqualified from voting on a matter before the Board because of a conflict of interest, that Director shall be excluded from the calculation of the total number of Directors that constitute a majority. The Board of Directors shall strive for consensus of all members on items.

9.3. Voting on Fiscal Items. Fiscal items, approval of the annual budget of the Agency and any expenditures, and any projects shall require an affirmative vote by a majority of the Board of Directors.

Article 10. Officers

10.1. Officers. The Board of Directors shall select a Chairman, Vice-Chairman, Secretary, and any other officers as determined necessary by the Board of Directors.

10.1.1. The Chairman shall preside at all Board Meetings.

10.1.2. The Vice-Chairman shall act in place of the Chairman at meetings should the Chairman be absent.

10.1.3. The Secretary shall keep minutes of all meetings of the Board of Directors and shall, as soon as possible after each meeting, forward a copy of the minutes to each member and alternate of the Board of Directors.

10.1.4. All Officers shall be chosen at the first Board of Directors meeting and serve a term for two (2) years. An Officer may serve for multiple consecutive terms. Any Officer may resign at any time upon written notice to the Agency.

Article 11. Committee Formation

11.1. Internal Committee Formation. There shall be established such internal committees as the Board of Directors shall determine from time to time. Each such internal committee shall be comprised of two (2) Directors, shall exist for the term specified in the action establishing the committee, shall meet as directed by the Board of Directors, and shall make recommendations to the Board of Directors on the various activities of the Agency.

11.2. External Advisory Committee Formation. The Board of Directors may establish, as deemed necessary, one or more advisory committees comprised of diverse social, cultural, and economic elements of the population and area stakeholders within the Ukiah Valley Basin. The Board of Directors shall encourage the active involvement of the advisory committee(s) prior to and during the development and implementation of the Groundwater Sustainability Plan. The Board of Directors will ensure that at least one (1) member from the Board of Directors or Agency employee attends and participates in each advisory committee meeting.

11.3. Technical Advisory Committee. There shall be established a technical advisory committee, the purpose of which shall be to provide advice to the Board of Directors on issues of a technical nature related to the activities of the Agency. The technical advisory committee shall be comprised of at least one (1) representative of each Member; one (1) representative for each of the Agricultural Stakeholders and the Tribal Stakeholders; at least one (1) representative from the Sonoma County Water Agency; and at least one (1) representative from the Mendocino County Resource Conservation District. The technical advisory committee shall meet as directed by the Board of Directors, and shall make recommendations to the Board of Directors as requested. The role and responsibilities of the technical advisory committee will be established in a Memorandum of Understanding between the Agency, the Mendocino County Resource Conservation District, and the Sonoma County Water Agency.

Article 12. Treasurer, Controller, and Legal Counsel

12.1. Treasurer and Controller. The County of Mendocino shall act as Treasurer and Controller for the Agency. The Controller of the Agency shall cause an independent audit of the Agency's finances to be made by a certified public accountant in compliance with California Government Code Section 6505. The Treasurer of the Agency shall be the depositor and shall have custody of all money of the Agency from whatever source. The Controller of the Agency shall draw warrants and pay demands against the Agency when the demands have been approved by the Agency, or any authorized representative pursuant to any delegation of Agency adopted by the Agency. The Treasurer and Controller shall comply strictly with the provisions of statutes relating to their duties found in Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the California Government Code.

12.2. Legal Counsel. The Board of Directors may appoint legal counsel as it deems appropriate.

Article 13. Executive Director

13.1. Appointment. The Board of Directors may hire an Executive Director who shall be compensated for his or her services, as determined by the Board of Directors. The Executive Director may, though need not be, an officer, employee or representative of one of the Members.

13.2. Duties. The Executive Director shall be the Chief Administrative Officer of the Agency, shall serve at the pleasure of the Board of Directors, and shall be responsible to the Board of Directors for the proper and efficient administration of the Agency. The Executive Director shall have the powers designated in the Bylaws.

13.3. Term and Termination. The Executive Director shall serve until he/she resigns or the Board of Directors terminates his/her appointment.

13.4. Staff. The Executive Director may employ such additional full-time and or part-time employees, assistants, and independent contractors that may be necessary from time to time to accomplish the purposes of the Agency, subject to approval of the Board of Directors. The Agency may contract with a Member or other public agency or private entity for various services, including without limitation, those related to the Agency's finances, purchasing, risk management, information technology, human resources and other technical and non-technical staff assistance as may be required. A written Agreement shall be entered between the Agency and the Member or other public agency or private entity contracting to provide such service, and that Agreement shall specify the terms on which such services shall be provided, including without limitation, the compensation, if any, that shall be made for the provision of such services.

Article 14. Specific Projects

14.1. Projects. The Agency intends to carry out activities in furtherance of its purposes and consistent with the powers established by the Agreement with the participation of all Members.

14.2. Member Specific Projects. In addition to the general activities undertaken by all Members of the Agency, the Agency may initiate specific projects or litigation that involves less than all Members. No Member shall be required to be involved in a project that involves less than all the Members.

14.3. Project Agreement. Prior to undertaking any project or litigation that does not involve all Member Agencies, the Members electing to participate in the project shall enter into a Project Agreement. A Member may elect not to participate in a specific project or litigation matter by providing notice and not entering into the Project Agreement specific to the matter in which the Member has elected not to participate. Each Project Agreement shall provide the terms and conditions by which the Members that enter into the Project Agreement will participate in the project. 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 Agency in regard to a particular Project shall be the debts, liabilities, obligations, and indebtedness of those Members who have executed the Project Agreement in accordance with the terms thereof and shall not be the debts, liabilities, obligations, and indebtedness of those Members who have not executed the Project Agreement. Further, to the extent the Project is litigation, the Members who have not entered into the Project Agreement shall not be named or otherwise listed in the pleadings and/or appear on litigation materials.

14.4. Board of Directors Approval. The Board of Directors shall have the authority to disapprove any Project Agreement upon a determination that the Project Agreement has specific, substantial adverse impacts upon Members that have not executed the Project Agreement.

Article 15. Budget and Expenses

15.1. Budgets. Within ninety (90) days after the first meeting of the Governing Board of the Agency, and thereafter prior to the commencement of each fiscal year, the Board of Directors shall adopt a budget for the Agency for the ensuing fiscal year.

15.2. Agency Funding and Contributions. In order to provide the needed capital to initially fund the Agency, the Agency shall be initially funded by a contribution from initial Members in the amount established in the bylaws, which contribution shall be set at an equal dollar amount for initial Members. In subsequent years, the Agency may be funded through additional voluntary contributions by all Members, and as otherwise provided in Chapter 8 of SGMA (commencing with Section 10730 of the Water Code).

Article 16. Liability and Indemnification

16.1. Liability. The Members 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. Therefore unless and to the extent otherwise required by law or agreed to herein by the Members, in accordance with California Government Code Section 6507, the debts, liabilities and obligations of the Agency shall not be the debts, liabilities or obligations of the Member entities. The Agency shall own and hold title to all funds, property and works acquired by it during the term of this Agreement.

16.2. Indemnification. Funds of the Agency may be used to defend, indemnify, and hold harmless the Agency, each Member, each Director, and any officers, agents and employees of the Agency for their actions taken within the course and scope of their duties while acting on behalf of the Agency. Other than for gross negligence or intentional acts, to the fullest extent permitted by law, the Agency agrees to save, indemnify, defend and hold harmless each Member from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorney's fees and costs, court costs, interest, defense costs, and expert witness fees, where the same arise out of, or are in any way attributable in whole or in part to, negligent acts or omissions of the Agency or its employees, officers or agents or the employees, officers or agents of any Member, while acting within the course and scope of a Member relationship with the Agency.

Article 17. Withdrawal and Termination

17.1. Withdrawal. A Member may unilaterally withdraw from this Agreement without causing or requiring termination of this Agreement, effective upon sixty (60) days written notice to the remaining Members.

17.2. Termination of Agency. This Agreement may be rescinded and the Agency terminated by unanimous written consent of all Members, except during the outstanding term of any Agency indebtedness.

17.3. Effect of Withdrawal or Termination. Upon termination of this Agreement or unilateral withdrawal, a Member shall remain obligated to pay its share of all debts, liabilities and obligations of the Agency required of the Member pursuant to the terms of this Agreement which were incurred or accrued prior to the date of such termination or withdrawal, including without limitation, those debts, liabilities and obligations pursuant to Section 5.2.11. Any Member that withdraws from the Agency shall have no right to participate in the business and affairs of the Agency, or to exercise any rights of a Member under this Agreement or the Act, but shall continue to share in distributions from the Agency on the same basis as if such Member had not withdrawn, provided that a Member that has withdrawn from the Agency shall not receive distributions in excess of the contributions made to the Agency while a Member. The right to share in distributions granted under this section shall be in lieu of any right the withdrawn Member may have to receive a distribution or payment of the fair value of the Member's interest in the Agency.

17.4. Disposition of Agency Assets upon Termination.

17.4.1. Surplus Funds. Upon termination of this Agreement, any reserves or surplus money on-hand shall be returned to the Members in the same proportion said Members have funded such reserves or surplus, in accordance with California Government Code section 6512.

17.4.2. Agency Property. The Agency shall first offer any assets of the Agency for sale to the Members on terms and conditions determined by the Board of Directors. If no such sale to Members is consummated, the Board shall offer the assets of the Agency for sale to any non-member for good and adequate consideration on terms and conditions determined by the Board of Directors.

Article 18. Miscellaneous

18.1. No Predetermination or Irretrievable Commitment of Resources. Nothing in this Agreement shall constitute a determination by the Agency or any of its Members that any action shall be undertaken or that any unconditional or irretrievable commitment of resources shall be made, until such time as the required compliance with all local, state, or federal laws, including without limitation the California Environmental Quality Act, National Environmental Policy Act, or permit requirements, as applicable, has been completed.

18.2. Notices. Notices hereunder shall be sufficient if delivered via electronic mail, First-Class mail to the addresses below:

Russian River Flood Control and Water Conservation Improvement District: 151
Laws Avenue, Suite D, Ukiah, CA 95482
County of Mendocino: 501 Low Gap Road, Room 1010, Ukiah, CA 95482
City of Ukiah: 300 Seminary Avenue, Ukiah, CA 95482
Upper Russian River Water Agency: 151 Laws Avenue, Ukiah, CA 95482

18.3. Bylaws. At, or as soon as practicable after the first Board of Directors meeting the Board of Directors shall draft and approve Bylaws of the Agency to govern day-to-day operations of the Agency.

18.4. Amendment. This Agreement may be amended at any time, by mutual agreement of the Members, provided that before any amendments shall be operative or valid, it shall be reduced to writing and signed by all Members hereto.

18.5. Agreement Complete. This Agreement constitutes the full and complete Agreement of the Members. This Agreement supersedes all prior Agreements and understandings, whether in writing or oral, related to the subject matter of this Agreement that are not set forth in writing herein.

18.6. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions will remain in force and unaffected to the fullest extent permitted by law and regulation.

18.7. Execution in Counterparts. The Parties intend to execute this Agreement in counterparts. It is the intent of the Parties to hold one (1) counterpart with single original signatures to evidence the Agreement and to thereafter forward three (3) other original counterparts on a rotating basis for all signatures. Thereafter, each Member shall be delivered an originally executed counterpart with all Member signatures.

18.8. Withdrawal by Operation of Law. Should the participation of any Member to this Agreement be decided by the courts to be illegal or in excess of that Member's authority or in conflict with any law, the validity of this Agreement as to the remaining Members shall not be affected thereby.

18.9. Assignment. 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.

18.10. Binding on Successors. This Agreement shall inure to the benefit of, and be binding upon, the successors or assigns of the Members.

18.11. Other Joint Power Agreements. Nothing in this Agreement shall prevent the Members from entering into other joint exercise of power Agreements.

[Signature Pages Below]

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the Effective Date.

COUNTY OF MENDOCINO

By: _____
JOHN MCCOWEN, Chair
BOARD OF SUPERVISORS

Date: _____

ATTEST:

CARMEL J. ANGELO, Clerk of said Board

By: _____
Deputy

Date: _____

I hereby certify that according to the provisions of Government Code Section 25103, delivery of this document has been made.

CARMEL J. ANGELO, Clerk of said Board

By: _____
Deputy

Date: _____

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

KATHARINE L. ELLIOTT,
County Counsel

By: _____
Deputy

Date: _____

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the Effective Date.

CITY OF UKIAH

BY: _____

Date

Jim O. Brown, MAYOR

BY: _____

Date

CITY MANAGER

ATTEST

CITY CLERK

Date

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the Effective Date.

Russian River Flood Control and Water Conservation Improvement District

By: _____ Date: _____

Paul Zellman, President

Board of Trustees

IN WITNESS WHEREOF, the parties hereto execute this Agreement as of the Effective Date.

Upper Russian River Water Agency

By: _____

Date: _____

Jerry Cardoza, President

Board of Directors