

Section 1. Introduction

Santa Margarita Basin Groundwater Sustainability Plan

Appendix 1B Joint Powers Agreement

JOINT EXERCISE OF POWERS AGREEMENT

by and among

SCOTTS VALLEY WATER DISTRICT

SAN LORENZO VALLEY WATER DISTRICT

and

COUNTY OF SANTA CRUZ

creating the

SANTA MARGARITA GROUNDWATER AGENCY

June 1, 2017

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JOINT EXERCISE OF POWERS AGREEMENT OF THE SANTA MARGARITA GROUNDWATER AGENCY

This **Joint Exercise of Powers Agreement** (“**Agreement**”) is made and entered into as of June 1, 2017 (“**Effective Date**”), by and among the Scotts Valley Water District, the San Lorenzo Valley Water District, and the County of Santa Cruz, sometimes referred to herein individually as a “**Member**” and collectively as the “**Members**” for purposes of forming the Santa Margarita Groundwater Agency (“**Agency**”) and setting forth the terms pursuant to which the Agency shall operate. Capitalized defined terms used herein shall have the meanings given to them in Article 1 of this Agreement.

RECITALS

A. Each of the Members is a local agency, as defined by the Sustainable Groundwater Management Act of 2014 (“**SGMA**”), duly organized and existing under and by virtue of the laws of the State of California, and each Member can exercise powers related to groundwater management.

B. SGMA requires designation of a groundwater sustainability agency (“**GSA**”) by June 30, 2017, for groundwater basins designated by the California Department of Water Resources (“**DWR**”) as medium- and high-priority basins.

C. SGMA requires adoption of a groundwater sustainability plan (“**GSP**”) by January 31, 2022, for all medium- and high-priority basins not identified as being subject to critical conditions of overdraft.

D. Each of the Members either extracts groundwater from or regulates land use activities overlying a common groundwater basin located in Santa Cruz County in the vicinity of Scotts Valley, Felton, Ben Lomond and Boulder Creek. This area is known as the Santa Margarita Groundwater Basin (hereafter “**Basin**”), and is proposed by DWR to be designated as Basin 3-027 in the Draft Bulletin 118 Basins (2016 Edits). It is expected that the Basin will be designated by DWR as having a medium or high priority.

E. The Members intend for the Agency to develop a GSP and manage the Basin pursuant to SGMA.

F. Under SGMA, a combination of local agencies may form a GSA through a joint powers agreement.

G. 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.

H. The Joint Exercise of Powers Act of 2000 (“**Act**”) authorizes the Members to create a joint powers authority, to jointly exercise any power common to the Members, and to exercise additional powers granted under the Act.

I. The Act, including the Marks-Roos Local Bond Pooling Act of 1985 (Government Code sections 6584, *et seq.*), authorizes an entity created pursuant to the Act to issue bonds, and under certain circumstances, to purchase bonds issued by, or to make loans to,

the Members for financing public capital improvements, working capital, liability and other insurance needs or projects whenever doing so results in significant public benefits, as determined by the Members. The Act further authorizes and empowers a joint powers authority to sell bonds so issued or purchased to public or private purchasers at public or negotiated sales.

J. The Members have a history of collaborating on groundwater management issues in the Santa Margarita Groundwater Basin, originally with a memorandum of understanding dated June 30, 1995, forming the Santa Margarita Groundwater Basin Management Advisory Committee (SMGBAC).

K. The Members agree that by approving the creation of the Santa Margarita Groundwater Agency they are withdrawing from and disbanding the Santa Margarita Groundwater Basin Management Advisory Committee (SMGBAC).

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

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

TERMS OF AGREEMENT

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

ARTICLE 1 DEFINITIONS

The following terms have the following meanings for purposes of this Agreement:

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 "Agreement" has the meaning assigned thereto in the Preamble.

1.3 "Auditor" means the auditor of the financial affairs of the Agency appointed by the Board of Directors pursuant to Section 14.3 of this Agreement.

1.4 "Agency" has the meaning assigned thereto in the Preamble.

1.5 "Basin" has the meaning assigned thereto in Recital D.

1.6 "Board of Directors" or "Board" means the governing body of the Agency as established by Article 6 of this Agreement.

1.7 “Bylaws” means the bylaws, if any, adopted by the Board of Directors pursuant to Article 11 of this Agreement to govern the day-to-day operations of the Agency.

1.8 “Director” and “Alternate Director” mean a director or alternate director appointed pursuant to Article 6 of this Agreement. “Member Director” is a Director or Alternate Director appointed by and representing a Member agency pursuant to Article 6 of this Agreement.

1.9 “DWR” has the meaning assigned thereto in Recital B.

1.10 “GSA” has the meaning assigned thereto in Recital B.

1.11 “GSP” has the meaning assigned thereto in Recital C.

1.12 “Member” means each party to this Agreement that satisfies the requirements of Section 5.1 of this Agreement, including any new members as may be authorized by the Board, pursuant to Section 5.2 of this Agreement.

1.13 “Officer(s)” means the Chair, Vice Chair, Secretary, or Treasurer of the Agency to be appointed by the Board of Directors pursuant to Section 7.1 of this Agreement.

1.14 “SGMA” has the meaning assigned thereto in Recital A.

1.15 “State” means the State of California.

ARTICLE 2 CREATION OF THE AGENCY

2.1 Creation of a Joint Powers Authority. There is hereby created pursuant to the Act a joint powers authority, which will be a public entity separate from the Members to this Agreement, and shall be known as the Santa Margarita Groundwater Agency (“**Agency**”). Within 30 days after the Effective Date of this Agreement and after any amendment, the Agency shall cause a notice of this Agreement or amendment to be prepared and filed with the office of the California Secretary of State containing the information required by Government Code section 6503.5. Within 10 days after the Effective Date of this Agreement, the Agency shall cause a statement of the information concerning the Agency, required by Government Code section 53051, to be filed with the office of the California Secretary of State and with the County Clerk for the County of Santa Cruz, setting forth the facts required to be stated pursuant to Government Code section 53051(a).

2.2 Purpose of the Agency. Each Member to this Agreement has in common the power to study, plan, develop, finance, acquire, construct, maintain, repair, manage, operate, control, and govern the water supply and water management within the Basin, either alone or in cooperation with other public or private non-member entities, and each is a local agency eligible to serve as a GSA within the Basin, either alone or jointly through a joint powers agreement as provided for by SGMA. The purpose of this Agency is to serve as the GSA for the Basin and to develop, adopt, and implement the GSP for the Basin pursuant to SGMA and other applicable provisions of law.

ARTICLE 3 TERM

This Agreement shall become effective upon execution by each of the Members and shall remain in effect until terminated pursuant to the provisions of Article 17 (Withdrawal of Members) of this Agreement.

ARTICLE 4 POWERS

The Agency shall possess the power in its own name to exercise any and all common powers of its 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 in SGMA. 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 Santa Cruz, and in the event of the withdrawal of the County of Santa Cruz as a Member under this Agreement, then the manner of exercising the Agency's powers shall be those restrictions imposed on the Scotts Valley Water District.

- 4.1 To exercise all powers afforded to a GSA pursuant to and as permitted by SGMA.
- 4.2 To develop, adopt and implement the GSP pursuant to SGMA.
- 4.3 To adopt rules, regulations, policies, bylaws and procedures governing the operation of the Agency and adoption and implementation of the GSP.
- 4.4 To obtain rights, permits and other authorizations for or pertaining to implementation of the GSP.
- 4.5 To perform other ancillary tasks relating to the operation of the Agency pursuant to SGMA, including without limitation, environmental review, engineering, and design.
- 4.6 To make and enter into all contracts necessary to the full exercise of the Agency's power.
- 4.7 To employ, designate or otherwise contract for the services of agents, officers, employees, attorneys, engineers, planners, financial consultants, technical specialists, advisors, and independent contractors.
- 4.8 To exercise jointly the common powers of the Members, as directed by the Board, in developing and implementing a GSP for the Basin.
- 4.9 To investigate legislation and proposed legislation affecting the Basin and to make appearances regarding such matters.
- 4.10 To cooperate and to 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.

4.11 To incur debts, liabilities or obligations, 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 provided in Chapter 8 of SGMA commencing at Section 10730 of the Water Code.

4.12 To collect and monitor data on the extraction of groundwater from, and the quality of groundwater in the Basin.

4.13 To establish and administer a conjunctive use program for the purposes of maintaining sustainable yields in the Basin consistent with the requirements of SGMA.

4.14 To exchange and distribute water.

4.15 To regulate groundwater extractions as permitted by SGMA.

4.16 To impose groundwater extraction fees as permitted by SGMA.

4.17 To spread, sink and inject water into the Basin.

4.18 To store, transport, recapture, recycle, purify, treat or otherwise manage and control water for beneficial use.

4.19 To apply for, accept and receive licenses, permits, water rights, approvals, agreements, grants, loans, contributions, donations or other aid from any agency of the United States, the State of California, or other public agencies or private persons or entities necessary for the Agency's purposes.

4.20 To develop and facilitate market-based solutions for the use and management of water rights.

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

4.22 To sue and be sued in its own name.

4.23 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.

4.24 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 the GSP to the Members, legislative, administrative, and judicial bodies, as well the public generally.

4.25 To accumulate operating and reserve funds for the purposes herein stated.

4.26 To invest money that is not required for the immediate necessities of the Agency, as the Agency determines is advisable, in the same manner and upon the same conditions as Members, pursuant to Government Code section 53601, as it now exists or may hereafter be amended.

4.27 To undertake any investigations, studies, and matters of general administration.

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

ARTICLE 5 MEMBERSHIP

5.1 Members. The Members of the Agency shall be the Scotts Valley Water District, the San Lorenzo Valley Water District, and the County of Santa Cruz, as long as they have not, pursuant to the provisions hereof, withdrawn from this Agreement.

5.2 New Members. Any public agency (as defined by the Act) that is not a Member on the Effective Date of this Agreement may become a Member upon: (a) the approval of the Board of Directors by a supermajority of at least seventy-five (75%) of the votes held among all Directors as specified in Article 9 (Member Voting); (b) payment of a pro rata share of all previously incurred costs that the Board of Directors determines have resulted in benefit to the public agency, and are appropriate for assessment on the public agency; and (c) execution of a written agreement subjecting the public agency to the terms and conditions of this Agreement.

ARTICLE 6 BOARD OF DIRECTORS AND OFFICERS

6.1 Formation of the Board of Directors. The Agency shall be governed by a Board of Directors ("**Board**"). The Board shall consist of eleven (11) Directors consisting of the following representatives who shall be appointed in the manner set forth in Section 6.3:

- 6.1.1 Two (2) representatives appointed by the governing body of each of the following public agency Members: the Scotts Valley Water District, the San Lorenzo Valley Water District and the County of Santa Cruz
- 6.1.2 One (1) representative appointed by the governing body of the City of Scotts Valley
- 6.1.3 One (1) representative appointed by the governing body of the City of Santa Cruz
- 6.1.4 One (1) representative of the Mt. Hermon Association Community Water System
- 6.1.5 Two (2) representatives of private well owners or small public water systems within the boundaries of the Agency.

6.2 Duties of the Board of Directors. The business and affairs of the Agency, and all of its powers, including without limitation all powers set forth in Article 4 (Powers), are reserved

to and shall be exercised by and through the Board of Directors, except as may be expressly delegated to the staff or others pursuant to this Agreement, Bylaws, or by specific action of the Board of Directors.

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

- 6.3.1 The two representatives from the Scotts Valley Water District shall be appointed by the Scotts Valley Water District Board of Directors.
- 6.3.2 The two representatives from the San Lorenzo Valley Water District shall be appointed by the San Lorenzo Valley Water District Board of Directors.
- 6.3.3 The two representatives from the County of Santa Cruz shall be appointed by the County of Santa Cruz Board of Supervisors.
- 6.3.4 The representative from the City of Scotts Valley shall be appointed by the City of Scotts Valley Council.
- 6.3.5 The representative from the City of Santa Cruz shall be appointed by the City of Santa Cruz Council.
- 6.3.6 The representative from the Mt. Hermon Association Community Water System shall be appointed by the Mt Hermon Association, Inc.

6.3.7 The two representatives of private well owners shall be appointed by unanimous vote of the Member Agency Directors unless the private well owners choose their representatives by a method of self-selection as described in the Bylaws. The procedures for nominating the private well owners shall be set forth in the Bylaws. Prior to the adoption of the Bylaws and selection of the private well owner representatives, the Board may appoint temporary Directors to serve as the representatives of the private well owners.

6.4 Alternate Directors. Each Member may have one Alternate to act as a substitute Director for either of the Member's Directors. One Alternate shall also be appointed to act as a substitute Director for the two Directors representing private well owners, and one alternate for each entity may be appointed to act as a substitute Director for the City of Scotts Valley, City of Santa Cruz and Mt. Hermon Association. All Alternates shall be appointed in the same manner as set forth in Section 6.3. 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 their 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. Alternates are strongly encouraged to attend Board meetings and stay informed on current issues before the Board.

6.5 Requirements. Each Member's Directors and Alternate Director shall be appointed by that Member's governing body. A Member's Director or Alternate Director may be removed during his or her term or reappointed for multiple terms at the pleasure of the Member that appointed him or her. A Director representing private well owners, the City of

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Scotts Valley, the City of Santa Cruz or the Mt. Hermon Association may be removed or reappointed in the same manner as he or she was appointed as set forth in Section 6.3. No individual Director may be removed in any other manner, including by the affirmative vote of the other Directors except as described in Section 6.6

6.6 Code of Conduct. All Directors and Alternate Directors shall agree in writing to comply with the Code of Conduct as contained in the Bylaws. Breach of the Code could result in the removal of the Director from the Board.

6.7 Vacancies. A vacancy on the Board of Directors shall occur when a Director resigns or at the end of the Director's term as set forth in Section 6.5. For Member Directors, a vacancy shall also occur when he or she is removed by his or her appointing Member. For Directors representing private well owners, the City of Scotts Valley, the City of Santa Cruz or the Mt. Hermon Association, a vacancy shall also occur when the Director is removed as set forth in Section 6.5. Upon the vacancy of a Director, the Alternate Director shall serve as Director until a new Director is appointed as set forth in Section 6.3 unless the Alternate is already serving as a substitute 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 6.3. Members shall provide notice of any changes in Director or Alternate Director positions to the Board of Directors or its designee in writing and signed by an authorized representative of the Member.

ARTICLE 7 OFFICERS

7.1 Officers. Officers of the Agency shall be a Chair, Vice Chair, Secretary, and Treasurer. The Treasurer shall be appointed consistent with the provisions of Section 14.3. The Vice Chair, or in the Vice Chair's absence, the Secretary, shall exercise all powers of the Chair in the Chair's absence or inability to act.

7.2 Appointment of Officers. Officers shall be elected annually by, and serve at the pleasure of, the Board of Directors. Officers shall be elected at the first Board meeting, and thereafter at the first Board meeting following January 1st of each year, or as duly continued by the Board. An Officer may serve for multiple consecutive terms, with no term limit. Any Officer may resign at any time upon written notice to the Board, and may be removed and replaced by a simple majority vote of the Board.

7.3 Principal Office. The principal office of the Agency shall be established by the Board of Directors, and may thereafter be changed by a simple majority vote of the Board.

ARTICLE 8 DIRECTOR MEETINGS

8.1 Initial Meeting. The initial meeting of the Board of Directors shall be held in the County of Santa Cruz, California, within thirty (30) days of the Effective Date of this Agreement.

8.2 Time and Place. The Board of Directors shall meet at least quarterly, at a date, time and place set by the Board within the jurisdictional boundaries of one or more of the Members and at such other times as may be determined by the Board.

8.3 Special Meetings. Special meetings of the Board of Directors may be called by the Chair or by a simple majority of Directors, in accordance with the provisions of Government Code section 54956.

8.4 Conduct. All meetings of the Board of Directors, including special meetings, shall be noticed, held, and conducted in accordance with the Ralph M. Brown Act (Government Code sections 54950, *et seq.*). The Board may use teleconferencing in connection with any meeting in conformance with and to the extent authorized by applicable law.

8.5 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 MEMBER VOTING

9.1 Quorum. A quorum of any meeting of the Board of Directors shall consist of an absolute majority of Directors plus one Director. In the absence of a quorum, any meeting of the Directors may be adjourned by a vote of the simple majority of Directors present, but no other business may be transacted. For purposes of this Article, a Director shall be deemed present if the Director appears at the meeting in person or participates telephonically, provided that the telephone appearance is consistent with the requirements of the Ralph M. Brown Act.

9.2 Director Votes. Voting by the Board of Directors shall be made on the basis of one vote for each Director. A Director, or an Alternate Director when acting in the absence of his or her Director, may vote on all matters of Agency business unless disqualified because of a conflict of interest pursuant to California law or the local conflict of interest code adopted by the Board of Directors.

9.3 Affirmative Decisions of the Board of Directors. 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 appointed 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. Notwithstanding the foregoing, a unanimous vote of all Member Directors participating in voting shall be required to approve any of the following: (i) any expenditure that is estimated to cost \$50,000 or more; (ii) the annual budget; (iii) the GSP for the Basin or any amendment thereto; (iv) the levying of assessments or fees; (v) issuance of indebtedness; or (vi) any stipulation to resolve litigation concerning groundwater rights within or groundwater management for the Basin.

ARTICLE 10 AGENCY ADMINISTRATION, MANAGEMENT AND OPERATION

The Board of Directors may select and implement an approach to Agency administration and management that is appropriate to the circumstances and adapted to the GSA's needs as they may evolve over time. Details of the Board's decision on Agency administration, management and operation shall be incorporated into the GSA's bylaws and reviewed and revised as needed using the established process for revising the GSA's bylaws.

ARTICLE 11 BYLAWS

The Board of Directors shall cause to be drafted, approve, and amend Bylaws of the Agency to govern the day-to-day operations of the Agency. The Bylaws shall be adopted within six months from the Board's first meeting.

ARTICLE 12 ADVISORY COMMITTEES

The Board of Directors may from time to time appoint one or more advisory committees or establish standing or ad hoc committees to assist in carrying out the purposes and objectives of the Agency. The Board shall determine the purpose and need for such committees and the necessary qualifications for individuals appointed to them.

ARTICLE 13 OPERATION OF COMMITTEES

Each committee shall include a Director as the chair thereof. Other members of each committee may be constituted by such individuals approved by the Board of Directors for participation on the committee. However, no committee or participant on such committee shall have any authority to act on behalf of the Agency except as duly authorized by the Board.

ARTICLE 14 ACCOUNTING PRACTICES

14.1 General. The Board of Directors shall establish and maintain such funds and accounts as may be required by generally accepted public agency accounting practices. The Agency shall maintain strict accountability of all funds and a report of all receipts and disbursements of the Agency.

14.2 Fiscal Year. Unless the Board of Directors decides otherwise, the fiscal year for the Agency shall run from July 1st through June 30th.

14.3 Appointment of Treasurer and Auditor; Duties. The Treasurer and Auditor shall be appointed in the manner, and shall perform such duties and responsibilities, specified in Sections 6505.5 and 6505.6 of the Act.

ARTICLE 15 BUDGET AND EXPENSES

15.1 Budget. Within 120 days after the first meeting of the Board of Directors, and thereafter prior to the commencement of each fiscal year, the Board shall adopt a budget for the Agency for the ensuing fiscal year no later than June 30th. In the event that a budget is not so approved, the prior year's budget shall be deemed approved for the ensuing fiscal year, and any groundwater extraction fee or assessment(s) of contributions of Members, or both, approved by the Board during the prior fiscal year shall again be assessed in the same amount and terms for the ensuing fiscal year.

15.2 Agency Funding and Contributions. For the purpose of funding the expenses and ongoing operations of the Agency, the Board of Directors shall maintain a funding account in connection with the annual budget process. The Board of Directors may fund the Agency and the GSP as provided in Chapter 8 of SGMA, commencing with Section 10730 of the Water Code, and may also issue assessments for contributions by the Members in the amount and frequency determined necessary by the Board. Such Member contributions shall be paid by each Member to the Agency within 30 days of assessment by the Board.

15.3 Return of Contributions. In accordance with Government Code section 6512.1, repayment or return to the Members of all or any part of any contributions made by Members and any revenues by the Agency may be directed by the Board of Directors at such time and upon such terms as the Board of Directors may decide; provided that (1) any distributions shall be made in proportion to the contributions paid by each Member to the Agency, and (2) any capital contribution paid by a Member voluntarily, and without obligation to make such capital contribution pursuant to Section 15.2, shall be returned to the contributing Member, together with accrued interests at the annual rate published as the yield of the Local Agency Investment Fund administered by the California State Treasurer, before any other return of contributions to the Members is made. The Agency shall hold title to all funds and property acquired by the Agency during the term of this Agreement.

15.4 Issuance of Indebtedness. The Agency may issue bonds, notes or other forms of indebtedness, as permitted under Section 4.11, provided such issuance be approved at a meeting of the Board of Directors by unanimous vote of the Member Directors as specified in Article 9 (Member Voting).

ARTICLE 16 LIABILITIES

16.1 Liability. In accordance with Government Code section 6507, the debt, liabilities and obligations of the Agency shall be the debts, liabilities and obligations of the Agency alone, and not the Members.

16.2 Indemnity. 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 OF MEMBERS

17.1 Unilateral Withdrawal. Subject to the Dispute Resolution provisions set forth in Section 18.9, a Member may unilaterally withdraw from this Agreement without causing or requiring termination of this Agreement, effective upon 30 days written notice to the Board of Directors or its designee.

17.2 Rescission or 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 terms of this Agreement, and that were incurred or accrued prior to the effective date of such termination or withdrawal, including without limitation those debts, liabilities and obligations pursuant to Sections 4.11 and 15.4. Any Member who 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 17.3 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 Return of Contribution. Upon termination of this Agreement, any surplus money on-hand shall be returned to the Members in proportion to their contributions made. The Board of Directors shall first offer any property, works, rights and interests 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 of Directors shall offer the property, works, rights, and interest of the Agency for sale to any non-member for good and adequate consideration. The net proceeds from any sale shall be distributed among the Members in proportion to their contributions made.

ARTICLE 18 MISCELLANEOUS PROVISIONS

18.1 No Predetermination or Irretrievable Commitment of Resources. Nothing herein 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 to a Director or Member hereunder shall be sufficient if delivered to the respective Director or clerk of the Member agency and addressed to the Director or clerk of the Member agency. Delivery may be accomplished by U.S. Postal Service, private mail service or electronic mail.

18.3 Amendments to Agreement. This Agreement may be amended or modified at any time only by subsequent written agreement approved and executed by all of the Members.

18.4 Agreement Complete. The foregoing 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.

18.5 Severability. Should any part, term or provision of this Agreement be decided by a court of competent jurisdiction to be illegal or in conflict with any applicable federal law or any law of the State of California, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms, or provisions hereof shall not be affected thereby, provided however, that if the remaining parts, terms, or provisions do not comply with the Act, this Agreement shall terminate.

18.6 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 the Agreement as to the remaining Members shall not be affected thereby.

18.7 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.

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

18.9 Dispute Resolution. In the event that any dispute arises among the Members relating to (i) this Agreement, (ii) the rights and obligations arising from this Agreement, or (iii) or a Member proposing to withdraw from membership in the Agency, the aggrieved Member or Member proposing to withdraw from membership shall provide written notice to the other Members of the controversy or proposal to withdraw from membership. Within thirty (30) days thereafter, the Members shall attempt in good faith to resolve the controversy through informal means. If the Members cannot agree upon a resolution of the controversy within thirty (30) days from the providing of written notice specified above, the dispute shall be submitted to mediation prior to commencement of any legal action or prior to withdrawal of a Member proposing to withdraw from membership. The mediation shall be no less than a full day (unless agreed otherwise among the Members) and the cost of mediation shall be paid in equal proportion among the Members. The mediator shall be either voluntarily agreed to or appointed by the Superior Court upon a suit and motion for appointment of a neutral mediator. Upon completion of mediation, if the controversy has not been resolved, any Member may exercise all rights to bring a legal action relating to the controversy or (except where such controversy relates to withdrawal of a Member's obligations upon withdrawal) withdraw from membership as otherwise authorized pursuant to this Agreement.

18.10 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original.

18.11 Singular Includes Plural. Whenever used in this Agreement, the singular form of any term includes the plural form and the plural form includes the singular form.