

**JOINT EXERCISE OF POWERS AGREEMENT**

**by and among**

**THE CITY OF SAN BUENAVENTURA**

**THE COUNTY OF VENTURA**

**and**

**UNITED WATER CONSERVATION DISTRICT**

**creating**

**THE MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY**

**JUNE 2017**

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**JOINT EXERCISE OF POWERS AGREEMENT  
THE MOUND BASIN GROUNDWATER SUSTAINABILITY AGENCY**

This **Joint Exercise of Powers Agreement** (“**Agreement**”) is made and effective on the last date executed (“**Effective Date**”), by and among the City of San Buenaventura, the County of Ventura, and United Water Conservation District, sometimes referred to herein individually as a “**Member**” and collectively as the “**Members**” for purposes of forming the Mound Basin Groundwater Sustainability Agency (“**Authority**”) and setting forth the terms pursuant to which the Authority 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. For groundwater basins designated by the Department of Water Resources (“**DWR**”) as medium- and high-priority but that have not been designated by DWR as subject to critical conditions of overdraft, SGMA requires establishment of a groundwater sustainability agency (“**GSA**”) by June 30, 2017 and adoption of a groundwater sustainability plan (“**GSP**”) by January 31, 2022.

C. The Mound Basin (designated basin number 4-4.03 in the DWR’s Bulletin No. 118) (“**Basin**”) is designated as a medium-priority sub-basin of the Santa Clara River Valley Basin. DWR has not identified the Basin as being in a condition of critical overdraft.

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

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 agreement.

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

G. 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 would result 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.

H. 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.

I. The governing body 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 Authority appointed by the Board of Directors pursuant to Section 13.3 of this Agreement.
- 1.4 "Authority" has the meaning assigned thereto in the Preamble.
- 1.5 "Basin" has the meaning assigned thereto in Recital C.
- 1.6 "Board of Directors" or "Board" means the governing body of the Authority 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 Authority.
- 1.8 "Director" shall mean a Member or Stakeholder Director appointed pursuant to Article 6 of this Agreement.
- 1.9 "DWR" has the meaning assigned thereto in Recital B.
- 1.10 "Effective Date" has the meaning assigned thereto in the Preamble.
- 1.11 "Executive Director" means the chief administrative officer of the Authority to be appointed by the Board of Directors pursuant to Article 10 of this Agreement.

- 1.12 “Farm Bureau” means the Farm Bureau of Ventura County.
- 1.13 “GSA” has the meaning assigned thereto in Recital B.
- 1.14 “GSP” has the meaning assigned thereto in Recital B.
- 1.15 “Hazardous Materials Law” means any and all federal, state, or local laws, ordinances, rules, decrees, orders, regulations, or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about any real property owned, leased, or controlled by the Authority, or soil and groundwater conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (“CERCLA”), as amended, 42 U.S.C. § 9601, *et seq.*, the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6901, *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, *et seq.*, the California Hazardous Waste Control Act, Cal. Health and Safety Code § 25100, *et seq.*, the Carpenter-Presley-Tanner Hazardous Substances Account Act, Cal. Health and Safety Code § 25300, *et seq.*, the Safe Drinking Water and Toxic Enforcement Act, Cal. Health and Safety Code § 25249.5, *et seq.*, the Porter-Cologne Water Quality Control Act, Cal. Water Code § 13000, *et seq.*, any amendments to the foregoing, and any similar federal, state, or local laws, ordinances, rules, decrees, orders, or regulations.
- 1.16 “Hazardous Materials” means any chemical, compound, material, substance or other matter that: (a) is defined as a hazardous substance, hazardous material, hazardous waste or toxic substance under any Hazardous Materials Law; (b) is controlled or governed by any Hazardous Materials Law or gives rise to any reporting, notice or publication requirements hereunder, or gives rise to any liability, responsibility or duty on the part of the Authority, with respect to any third person hereunder; or (c) is flammable or explosive material, oil, asbestos, urea formaldehyde, radioactive material, nuclear medicine material, drug, vaccine, bacteria, virus, hazardous waste, toxic substance, or related injurious or potentially injurious material (by itself or in combination with other materials).
- 1.17 “MBAWG” means the Mound Basin Ag Water Group, a registered corporation in the State of California.
- 1.18 “Member” has the meaning assigned thereto in the Preamble and further 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.
- 1.19 “Member Director” means a Director appointed pursuant to Section 6.3 of this Agreement that represents a Member.
- 1.20 “Officer(s)” means the chair and vice chair/secretary to be appointed by the Board

of Directors pursuant to Article 7 of this Agreement.

- 1.21 “SGMA” has the meaning assigned thereto in Recital A.
- 1.22 “Stakeholder Director” means a Director appointed pursuant to Section 6.3 that represents stakeholder interests.
- 1.23 “State” means the State of California.
- 1.24 “Representative” means an employee of the County of Ventura authorized to act on behalf of the Board of Supervisors or an employee of the City of San Buenaventura authorized to act on behalf of the City Council or an employee of United Water Conservation District authorized to act on behalf of the United Water Conservation District Board of Directors.

## **ARTICLE 2 CREATION OF THE AUTHORITY**

2.1 Creation of 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 Mound Basin Groundwater Sustainability Agency (“**Authority**”). Within thirty (30) days after the Effective Date of this Agreement and after any amendment, the Authority 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 seventy (70) days after the Effective Date of this Agreement, the Authority shall cause a statement of the information concerning the Authority, 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 Ventura, setting forth the facts required to be stated pursuant to Government Code section 53051(a).

2.2 Purpose of the Authority. Each Member to this Agreement has in common the power to study, plan, develop, finance, acquire, construct, maintain, repair, manage, operate, control, and govern water supply projects and exercise groundwater management authority 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 the GSA in the Basin, either alone or jointly through a joint powers agreement as provided for by SGMA. This Agreement is being entered into in order to jointly exercise some or all of the foregoing common powers, as appropriate, and for the exercise of such additional powers as may be authorized by law in the manner herein set forth, in order to effectuate the purposes of this Agreement. The purpose of the Authority 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 16 of this Agreement.



## **ARTICLE 4 POWERS**

The Authority 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 Authority, including but not limited to the powers set forth below, together with such other powers as are expressly set forth in the Act or in SGMA or as it may be amended in the future. For purposes of Government Code section 6509, and unless the Authority has adopted applicable rules, regulations, policies, bylaws and procedures, the powers of the Authority shall be exercised subject to the restrictions upon the manner of exercising such powers as are imposed on the County of Ventura, and in the event of the withdrawal of the County of Ventura as a Member under this Agreement, then the powers of the Authority shall be exercised subject to the restrictions upon the manner of exercising such powers as are imposed on the City of San Buenaventura.

4.1 To exercise all powers afforded to the Authority under SGMA or any amendment thereto, including without limitation:

4.1.1 To adopt rules, regulations, policies, bylaws and procedures governing the operation of the Authority.

4.1.2 To develop, adopt and implement a GSP for the Basin, and to exercise jointly the common powers of the Members in doing so.

4.1.3 To obtain rights, permits and other authorizations for, or pertaining to, implementation of a GSP for the Basin.

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

4.1.5 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 Authority's powers.

4.1.6 To establish and administer a conjunctive use program for the purposes of maintaining sustainable yields in the Basin consistent with the requirements of SGMA or any amendment thereto.

4.1.7 To exchange and distribute water.

4.1.8 To regulate groundwater extractions as permitted by SGMA.

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

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

4.1.11 To develop and facilitate market-based solutions for the use and

management of water rights.

4.1.12 To impose assessments, groundwater extraction fees or other charges, and to undertake other means of financing the Authority as authorized by Chapter 8 of SGMA, commencing at section 10730 of the Water Code.

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

4.2 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 Authority's purposes

4.3 To develop, collect, provide, and disseminate information that furthers the purposes of the Authority.

4.4 To make and enter contracts necessary to the full exercise of the Authority's power.

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

4.6 To incur debts, liabilities or obligations, to issue bonds, notes, certificates of participation, guarantees, equipment leases, reimbursement obligations and other indebtedness, as authorized by the Act.

4.7 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 Authority.

4.8 To sue and be sued in the Authority's own name.

4.9 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, have an interest and employ counsel and other expert assistance for these purposes.

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

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

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

4.13 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 Authority shall be the City of San Buenaventura, the County of Ventura, and United Water Conservation District, as long as they have not, pursuant to the provisions hereof, withdrawn from this Agreement.

5.2 New Members. Any local agency (as defined by SGMA) that is not a Member on the Effective Date of this Agreement may become a Member upon appropriate amendment of this Agreement pursuant to Section 17.3.

## **ARTICLE 6 BOARD OF DIRECTORS**

6.1 Formation of the Board of Directors. The Authority shall be governed by a Board of Directors (“**Board of Directors**” or “**Board**”). The Board shall consist of five (5) Directors comprised of representatives who shall be appointed in the manner set forth in Section 6.3.

6.1.1 Three (3) Member Directors appointed by the governing body of each Member.

6.1.2 One (1) Agricultural Stakeholder Director representative of agricultural interests within the Basin. The Agricultural Stakeholder Director need not be a member of the MBAWG or the Farm Bureau. The Agricultural Stakeholder Director shall meet either or both of the following qualifications:

- a) Own, as an individual or shareholder, trustee, limited liability company member or manager, or as a member of any other owner entity, land overlying the Basin (at least partially) that is utilized for a commercial agricultural business that produces groundwater from the Basin for its agricultural operation; or
- b) Operate a commercial agricultural business that itself produces groundwater from the Basin for its agricultural operations on land overlying the Basin and be an approved stakeholder representative by that property’s owner.

6.1.3 One (1) Environmental Stakeholder Director representative of environmental interests within the Basin. The Environmental Stakeholder Director shall be an active member of a nonprofit, 501(c)(3) organization which has an adopted budget and, at the sole discretion of the Member Directors, meets the following requirements: (i) is currently active within lands overlying the Mound Basin; and (ii) has a mission that advances, or is furthered by, groundwater sustainability.

6.2 Duties of the Board of Directors. The business and affairs of the Authority, and all of the powers of the Authority, 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 Executive Director 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 One (1) Member Director for the City of San Buenaventura shall be appointed by the City of San Buenaventura City Council. The Member Director will be a City Councilmember or Representative.

6.3.2 One (1) Member Director for the County of Ventura shall be appointed by the County of Ventura Board of Supervisors. The Member Director will be a County Supervisor or Representative.

6.3.3 One (1) Member Director for the United Water Conservation District shall be appointed by the United Water Conservation District Board of Directors. The Member Director will be a member of the United Water Conservation District Board of Directors or a Representative.

6.3.4 One (1) Agricultural Stakeholder Director unanimously selected by the Member Directors from a list of one or more qualified nominees submitted by the MBAWG, or the Farm Bureau if the MBAWG is unwilling or unable to nominate potential directors. The MBAWG, or the Farm Bureau, shall submit its nominee(s) to the Member Directors pursuant to a process specified in the Bylaws, unless directed otherwise by the Member Directors until such time as the Bylaws have been adopted. The Member Directors shall consider the nominee(s) at a regular meeting and at that meeting shall approve and appoint the Agricultural Stakeholder Director. In the absence of a unanimous vote of approval and appointment by the Member Directors, the Member Directors can request different nominations.

6.3.5 One (1) Environmental Stakeholder Director unanimously selected by the Member Directors from a nominee nominated by the following environmental organizations collectively:

1. Friends of the Santa Clara River
2. California Trout
3. National Audubon Society
4. Sierra Club
5. Santa Clara River Watershed Conservancy
6. Los Padres ForestWatch
7. Central Coast Alliance United for a Sustainable Economy
8. The Nature Conservancy
9. Wishtoyo Foundation
10. Keep Sespe Wild
11. Surfrider Foundation

12. CFROG (Citizens for Responsible Oil & Gas)

or, The Nature Conservancy if, and only if, the aforementioned list of organizations is unwilling or unable to nominate a potential Environmental Stakeholder Director. If the Member Directors do not accept a potential Environmental Stakeholder Director nominated by the aforementioned list of organizations or The Nature Conservancy, as applicable, the Member Directors shall request an additional nomination, as necessary. The aforementioned list of organizations shall submit its nominee 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 nominee(s) at a regular meeting and at that meeting shall approve and appoint the Environmental Stakeholder Director.

6.4 Director Terms and Removal. Each Member Director shall be appointed by resolution of that Member's governing body to serve for a term of two (2) years. To stagger the terms of the Directors, the initial terms of the Member Directors from the City of San Buenaventura and the United Water Conservation District shall be three (3) years. Subsequent terms for those Directors will be two (2) years. A Member's 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. Stakeholder Directors shall serve for a term of one (1) year and may serve for more than one term.

6.5 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 6.4. For Member Directors, a vacancy shall also occur when he or she is (a) removed by his or her appointing Member; or (b) ceases to be a member of the Member's governing body; or (c) ceases to be an employee of the Member. Upon the vacancy of a Director, the seat shall remain vacant until a replacement Director is appointed as set forth in Section 6.3. Members shall submit any changes in Director positions to the Executive Director by written notice signed by an authorized representative of the Member. The written notice shall include a resolution of the governing body of the Member directing such change in the Director position.

6.6 Conflicts of Interest. Notwithstanding Section 8.5, no Director shall be allowed to participate in any matter before the Board in which he or she has a conflict of interest. A Member Director is deemed to have a conflict of interest and disqualified from participating in related matters before the Board if that Member Director (i) is personally, or (ii) was appointed by a Member that is, named as an adverse party in any litigation in which the Authority is a party. A Stakeholder Director is deemed to have a conflict of interest and disqualified from participating in related matters before the Board if that Stakeholder Director (i) is personally, (ii) is employed by, or (iii) acts as a manager or executive director to, or sits on the board of, an entity that is named as, an adverse party in litigation in which the Authority is a party, except that the Authority's intervention or participation in an "adjudication action," as defined by Water Code section 10721, shall not give rise to a conflict of interest under this section. In such an event, the Director shall be deemed disqualified in all matters related to the issue being litigated, shall not be eligible to receive confidential information relating to the litigation from the Authority or its legal counsel, and shall not be eligible to attend any closed session where the litigation is discussed. In the event a Director deemed to have a conflict of interest refuses to withdraw from matters related to the conflict, the other Directors shall jointly seek a court order

preventing the conflicted Director from participating in those related matters.

## **ARTICLE 7 OFFICERS**

7.1 Officers. Officers of the Authority shall be a chair and vice chair/secretary. An additional Officer of the Authority shall be a treasurer appointed consistent with the provisions of Section 13.3. The vice chair/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. 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 full Board.

7.3 Principal Office. The principal office of the Authority shall be established by the Board of Directors, and may thereafter be changed by a simple majority vote of the full Board. The principal office of the Authority shall be located within the jurisdictional boundaries of one or more of the Members.

## **ARTICLE 8 DIRECTOR MEETINGS**

8.1 Initial Meeting. The initial meeting of the Board of Directors shall be held in the County of Ventura, 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 times as may be determined by the Board.

8.3 Special Meetings. Special meetings of the Board of Directors may be called in accordance with the Ralph M. Brown Act (Government Code sections 54950, *et seq.*).

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 VOTING**

9.1 Quorum. A quorum of any meeting of the Board of Directors shall consist of a

majority of the Directors. In the absence of a quorum, any meeting of the Directors may be adjourned by a vote of a 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 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 may vote on all matters of Authority 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 decisions of the Board of Directors shall require the affirmative vote of a minimum of three (3) Directors, except for the following matters which require special voting procedures from the Board to pass: (i) the Authority's annual budget and amendments thereto; (ii) the GSP for the Basin or any amendments thereto; (iii) the Authority's adoption of groundwater extraction fees or charges; (iv) the Authority's adoption of any taxes, fees, or assessments subject to Proposition 218; or (v) any stipulation to resolve litigation concerning groundwater rights within, or groundwater management for, the Basin. For these matters requiring special voting procedures, the matter may be approved on the first reading of the matter pursuant to a unanimous vote of all Directors; if unanimity is not obtained on the first reading of a matter, the Board shall continue a final vote on the matter for a second reading at the next regular meeting of the Board, unless the Board votes to continue the second reading of the matter to another regular or special meeting of the Board; the matter may be approved on the second reading of the matter by the affirmative vote of a minimum of three (3) Directors, if, and only if, at least one (1) of the affirmative votes is by the City of San Buenaventura's Director or the Agricultural Stakeholder Director.

## **ARTICLE 10 EXECUTIVE DIRECTOR AND STAFF**

10.1 Appointment. The Board of Directors shall appoint an Executive Director, who may be, though need not be, an officer, employee, or representative of one of the Members. The Executive Director's compensation, if any, shall be determined by the Board of Directors.

10.2 Duties. If appointed, the Executive Director shall be the chief administrative officer of the Authority, shall serve at the pleasure of the Board of Directors, and shall be responsible to the Board for the proper and efficient administration of the Authority. The Executive Director shall have the powers designated by the Board, or otherwise as set forth in the Bylaws.

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

10.4 Staff and Services. The Executive Director may employ such additional full-time and/or part-time employees, assistants and independent contractors who may be necessary from time to time to accomplish the purposes of the Authority, subject to the approval of the Board of

Directors. The Authority may contract with a Member or other public agency or private entity for various services, including without limitation, those related to the Authority's finance, purchasing, risk management, information technology and human resources. A written agreement shall be entered between the Authority 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 11 BYLAWS**

The Board of Directors shall cause to be drafted and approve Bylaws of the Authority to govern the day-to-day operations of the Authority. The Bylaws shall be adopted at or before the first anniversary of the Board's first meeting and may be amended from time to time.

## **ARTICLE 12 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 Authority. The Board shall determine the purpose and need for such committees and the necessary qualifications for individuals appointed to them. Each standing or ad hoc committee shall include a Director as the chair thereof. However, no committee or participant on such committee shall have any authority to act on behalf of the Authority.

## **ARTICLE 13 ACCOUNTING PRACTICES**

13.1 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 Authority shall maintain strict accountability of all funds and report of all receipts and disbursements of the Authority.

13.2 Fiscal Year. Unless the Board of Directors decides otherwise, the fiscal year for the Authority shall run from July 1 to June 30.

13.3 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, 6505.5 and 6505.6 of the Act. The treasurer shall be bonded in accordance with the provisions of section 6505.1 of the Act.

## **ARTICLE 14 BUDGET AND EXPENSES**

14.1 Budget. Within one hundred and twenty (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 Authority for the ensuing fiscal year. 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 by 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.

14.2 Authority Funding and Contributions. For the purpose of funding the expenses and ongoing operations of the Authority, the Board of Directors shall maintain a funding account in connection with the annual budget process. The Board of Directors may fund the Authority and the GSP as provided in Chapter 8 of SGMA (commencing with section 10730 of the Water Code), through voluntary contributions from Members. The Members agree that the Authority, and not the Members, have the sole responsibility to develop and implement a funding program to fiscally and fully implement the Authority's SGMA compliance efforts and ongoing operations.

14.3 Return of Contributions. In accordance with Government Code section 6512.1, the Authority may reimburse Members for all or any part of any contributions made by Members, and any revenues by the Authority may be distributed 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 Authority, and (2) any capital contribution paid by a Member voluntarily, and without obligation to make such capital contribution pursuant to Section 14.2, 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 Authority shall hold title to all funds and property acquired by the Authority during the term of this Agreement.

14.4 Issuance of Indebtedness. The Authority may issue bonds, notes or other forms of indebtedness, as permitted under Section 4.6, provided such issuance is approved at a meeting of the Board.

## **ARTICLE 15 LIABILITIES**

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

15.2 Indemnity. Funds of the Authority may be used to defend, indemnify, and hold harmless the Authority, each Member, each Director, and any officers, agents and employees of the Authority for their actions taken within the course and scope of their duties while acting on behalf of the Authority. To the fullest extent permitted by law, the Authority 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, acts or omissions of the Authority or its employees, officers or agents or negligent acts or omissions (not including gross negligence or wrongful conduct) of the employees, officers or agents of any Member, while acting within the course and scope of a Member relationship with the Authority.

15.3 Privileges and Immunities. All of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workers compensation, and other benefits which apply to the activity of officers, agents, or employees of any of the Members when performing their respective functions shall apply to them to the same degree and extent while engaged in the performance of any of the functions and other duties under this Agreement. None of the officers, agents, or employees appointed by the Board of Directors shall be deemed, by reason of their employment by the Board of Directors, to be employed by any of the Members or, by reason of their employment by the Board of Directors to be subject to any of the requirements of such Members.

15.4 Hazardous Materials. The Authority shall indemnify, protect, defend, and hold harmless the Members (and their respective officers, directors, employees and agents) from and against any and all liabilities, claims, suits, judgments, actions, investigations, proceedings, costs and expenses (including reasonable attorneys' fees and court costs) to the extent arising out of or in connection with any breach of any provisions of this Section directly or indirectly arising out of the use, generation, storage, release, disposal or transportation of Hazardous Materials by the Authority, or any successor of the Authority, or their respective agents, contractors, employees, licensees, or invitees, including, but not limited to, all foreseeable and unforeseeable consequential damages and the cost of any Remedial Work. The foregoing indemnity shall be in addition to and not a limitation of the indemnification provisions of Section 15.2 hereof. The foregoing indemnity extends beyond the term of this Agreement and is intended to operate as an agreement pursuant to Section 107(e) of the Comprehensive Environmental Response, Compensation, and Liability Act, 'CERCLA,' 42 U.S.C. Section 9607(e), and California Health and Safety Code Section 25364, and their successor statutes, to insure, protect, defend, hold harmless, and indemnify the Members from liability.

15.5 Liability Insurance. The Board of Directors shall obtain, and maintain in effect, appropriate liability insurance to cover the activities of the Authority's Directors and staff in the ordinary course of their duties.

## **ARTICLE 16 WITHDRAWAL OF MEMBERS**

16.1 Unilateral Withdrawal. Subject to the Dispute Resolution provisions set forth in Section 17.9, 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 Executive Director.

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

16.3 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 Authority 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 4.6 and 14.4. Any Member who withdraws from the Authority shall have no right to participate in the business and affairs of the Authority or to exercise any rights of a Member under this Agreement or the Act, but shall continue to share in distributions from the Authority on the same basis as if such Member had not withdrawn, provided that a Member that has withdrawn from the Authority shall not receive distributions in excess of the contributions made to the Authority while a Member. The right to share in distributions granted under this Section 16.3 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 Authority.

16.4 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 Authority 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 Authority 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 17 MISCELLANEOUS PROVISIONS**

17.1 No Predetermination or Irretrievable Commitment of Resources. Nothing herein shall constitute a determination by the Authority 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.

17.2 Notices. Notices to a Director or Member hereunder shall be sufficient if delivered to the Board Clerk, City Clerk or Board Secretary of the respective Director or Member and addressed to the Director or Member. Delivery may be accomplished by U.S. Postal Service, private mail service or electronic mail.

17.3 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.

17.4 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.

17.5 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.

17.6 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.

17.7 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.

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

17.9 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, (iii) a Member proposing to withdraw from membership in the Authority, or (iv) a Member proposing to initiate litigation in relation to legal rights to groundwater within the Basin or the management of the Basin, the aggrieved Member or Members proposing to withdraw from membership shall provide written notice to the other Members of the controversy or proposal to withdraw from membership. Within forty-five (45) days after such written notice, 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 forty-five (45) 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 withdraw from membership as otherwise authorized pursuant to this Agreement. The Authority may, at its discretion, participate in mediation upon request by a Stakeholder Director concerning a dispute alleged by the Stakeholder Director concerning the management of the Basin or rights to extract groundwater from the Basin, with the terms of such mediation to be determined in the sole discretion of the Member Directors.

17.10 Counterparts. This Agreement may be executed in counterparts. No counterpart shall be deemed to be an original or presumed delivered unless and until the counterpart executed by the other Members to this Agreement is in the physical possession of the Member seeking enforcement thereof.

17.11 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.

17.12 No Third-Party Rights. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under, or by reason of, this Agreement on any person other than the Members and their respective successors and assigns, nor is anything in this

Agreement intended to relieve or discharge the obligations or liability of any third person to any Member, nor shall any provision give any third person any right of subrogation or action over or against any Member.

17.13 Member Authorization. The governing bodies of the Members have each authorized execution of this Agreement, as evidenced by the signatures below.

**IN WITNESS WHEREOF**, the Members hereto have executed this Agreement by authorized officials thereof on the dates indicated below, which Agreement may be executed in counterparts.

*[Signatures on Following Page]*

CITY OF SAN BUENAVENTURA

DATED: June 12, 2017

APPROVED AS TO FORM:

By: *E. Jaramela*  
Title: Mayor

By: *Milton Hays*  
Title: Assistant City Attorney II

COUNTY OF VENTURA

DATED: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

UNITED WATER CONSERVATION DISTRICT

DATED: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_

CITY OF SAN BUENAVENTURA

DATED: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

COUNTY OF VENTURA



DATED: 6/6/17

APPROVED AS TO FORM:

By: John C. Ziegler

By: \_\_\_\_\_

Title: Chair, Board of Supervisors

Title: \_\_\_\_\_

UNITED WATER CONSERVATION DISTRICT

DATED: June 14, 2017

APPROVED AS TO FORM:

By: Bruce E. Gandy

By: Anthony K. Kumbly

Title: UWCD Board President

Title: UWCD Legal Counsel