

**JOINT EXERCISE OF POWERS AGREEMENT
ESTABLISHING THE SOUTH SAN JOAQUIN
GROUNDWATER SUSTAINABILITY AGENCY
AS A JOINT POWERS AUTHORITY**

THIS AGREEMENT is entered into and effective this 12th day of May, 2020 (“Effective Date”), pursuant to the Joint Exercise of Powers Act, Cal. Government Code §§ 6500 *et seq.* (“JPA Act”) by and among the South San Joaquin Irrigation District (“SSJID”), the City of Ripon (“RIPON”), and the City of Escalon (“ESCALON”), collectively referred to as “Members”).

RECITALS

WHEREAS, SSJID is an irrigation district operating under and by virtue of Division 11 of the California Water Code; and,

WHEREAS, RIPON and ESCALON are municipal corporations; and,

WHEREAS, On August 29, 2014, the California Legislature passed comprehensive groundwater legislation contained in SB 1168, SB 1319 and AB 1739. Collectively, those bills, as subsequently amended, enacted the “Sustainable Groundwater Management Act” (“SGMA”). Governor Brown signed the legislation on September 16, 2014, and SGMA became effective on January 1, 2015; and

WHEREAS, each of the Members overlies the San Joaquin Valley Groundwater Basin, Eastern San Joaquin Subbasin, California Department of Water Resources Basin No. 5-22.01 as its boundaries may be modified from time to time in accordance with California Water Code Section 10722.2; and,

WHEREAS, each of the Members meet the requirements to become a groundwater sustainability agency (“GSA”) under SGMA; and,

WHEREAS, the Members have elected to form the South San Joaquin Groundwater Sustainability Agency (“SSJGSA”), a GSA formed through a Memorandum of Agreement (“MOA”), the boundaries of which are depicted on the map attached hereto as Exhibit A; and,

WHEREAS, pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the California Government Code) (“JPA Act”), two or more public agencies may by agreement jointly exercise any power held in common by the agencies entering into such an agreement; and,

WHEREAS, the Members desire, through this Agreement, to convert the existing South San Joaquin Groundwater Sustainability Agency into a joint powers agency (“JPA”) for the purpose of coordinating groundwater management activities in accordance with SGMA; and,

WHEREAS, the Members, acting through the SSJGSA and by this Agreement intend to work cooperatively with other GSAs in the Eastern San Joaquin Subbasin to manage groundwater pursuant to the requirements of SGMA; and,

WHEREAS, while the Members desire to work cooperatively amongst themselves and other GSAs in the Basin, nothing in this Agreement shall require any Member to give up control over its own operations, or commit or otherwise share its Water Assets without the affected Member's express and formal consent.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein set forth, the Members agree as follows:

ARTICLE 1: DEFINITIONS

1.1 **Definitions.** As used in this Agreement, unless the context requires otherwise, the meaning of the terms hereinafter set forth shall be as follows:

- a. **"Agreement"** means this Joint Exercise of Powers Agreement Establishing the South San Joaquin Groundwater Sustainability Agency.
- b. **"Agency"** means the South San Joaquin Groundwater Sustainability Agency, a joint powers authority formed by this Agreement.
- c. **"Board of Directors"** or **"Board"** means the governing body formed to implement this Agreement as established herein.
- d. **"Ralph M Brown Act"** means Chapter 9, Division 2, Title 5 of Government Code of the State of California (commencing at section 54950), and any subsequent amendments of those provisions.
- d. **"Coordination Agreement"** means an agreement adopted between two or more GSAs that provides the basis for intra-basin coordination of the Groundwater Sustainability Plans ("GSPs") of multiple GSAs within a basin pursuant to SGMA.
- e. **"Dedicated Revenue Stream"** means a revenue stream dedicated to Agency activities that has been adopted by a Member or Members in the form of fees, assessments or charges in accordance with applicable law.
- f. **"DWR"** shall mean the California Department of Water Resources.
- g. **"Effective Date"** shall be as set forth in the Preamble.
- h. **"Groundwater Sustainability Agency"** or **"GSA"** shall mean an agency enabled by SGMA to regulate a portion of the Subbasin cooperatively with all other Groundwater Sustainability Agencies in the Basin, in compliance with the terms and provisions of SGMA.

- i. **“Groundwater Sustainability Plan”** or **“GSP”** is defined as set forth in SGMA.
- j. **“Agency Managed Area”** means those lands located within the Members’ boundaries that overlie the Subbasin and are depicted in **EXHIBIT A**.
- k. **“JPA Act”** means the Joint Exercise of Powers Act, Cal. Government Code §§ 6500 *et seq.*
- l. **“Agency Management or Managed Area”** means the area within the boundaries of a Member or group of Members to be managed by that Member or group of Members under a GSP adopted by the Agency.
- m. **“Member”** means any of the signatories to this Agreement and “Members” shall mean all of the signatories to this Agreement.
- n. **“SGMA”** means the California Groundwater Management Act of 2014 and all regulations adopted under the legislation (SB 1168, SB 1319 and AB 1739) that collectively comprise the Act, as that legislation and those regulations may be amended from time to time.
- o. **“Subbasin”** means the San Joaquin Valley Groundwater Basin, Eastern San Joaquin Subbasin, California Department of Water Resources Basin No. 5-22.01 as its boundaries may be modified from time to time in accordance with Cal. Water Code Section 10722.2.
- p. **“Water Assets”** means all surface water supplies, water facilities, water operations, groundwater supplies, and any other water-related assets to which each Member and each Member’s constituents are legally entitled.

ARTICLE 2: KEY PRINCIPLES

- 2.1 The Members intend to work together in mutual cooperation to manage the groundwater resources in the Agency Managed Area. Part of this cooperation will be the implementation of an adopted GSP by the Agency or implementation by a larger group, including the Eastern San Joaquin Groundwater Authority, of which the Agency is a member.
- 2.2 The Members intend to work together through the Agency to coordinate such implementation of an adopted GSP in accordance with the requirements of SGMA.
- 2.3 The Members intend to have the Agency continue as a member of the Eastern San Joaquin Groundwater Authority.
- 2.4 The Members expressly intend that the Agency will not have the authority to limit or interfere with the respective Members’ rights and authorities over their own internal matters, including, but not limited to, a Member’s Water Assets.

2.5 Nothing in this Agreement is intended to modify or limit a Member's police powers, land use, or any other authority.

2.6 Each Member shall be individually responsible for its own covenants, obligations, and liabilities under this Agreement. No Member shall be under the control of or shall be deemed to control any other Member. No Member shall be precluded from independently pursuing any of the activities contemplated in this Agreement. No Member shall be the agent or have the right or power to bind any other Member without such Member's express written consent, except as expressly provided in this Agreement. Contributions of grant funding, state, federal, or county funding may be provided as funding or a portion of funding on behalf of Members.

2.7 The Members intend through this Agreement to fund the activities of the Agency including but not limited to technical, consulting, administrative and management services needed to efficiently implement a GSP, to conduct outreach to constituents, members of the public, and both governmental and non-governmental organizations, to set budgets, work plans, and schedules for the implementation of the GSP, and to fund all Agency costs reasonably necessary for the purposes of this Agreement.

2.8 The Members intend to agree to distribute Agency costs equitably among the Members and to consider services provided in-kind in the determination of each Members' share of Agency costs.

2.9 Each Member acknowledges that SGMA requires multiple GSAs within a basin to coordinate and use common data, methodologies, and assumptions when developing and implementing a GSP, that DWR must review and approve the adopted GSP for the Subbasin, and that all GSAs must satisfactorily implement the adopted GSP in order for all GSAs overlying the Subbasin to be deemed substantially compliant under SGMA.

ARTICLE 3: FORMATION, PURPOSE AND POWERS

3.1 **Recitals:** The foregoing recitals are incorporated by reference.

3.2 **Certification.** Each Member certifies and declares that it is a public agency or municipal corporation that is authorized to be a party to a joint exercise of powers agreement and to contract with each other for the joint exercise of any common power under Article 1, Chapter 5, Division 7, Title 1 of the Government Code, commencing with section 6500.

3.3 **Formation of Joint Powers Authority.** Pursuant to the JPA Act, the Members hereby form and establish the South San Joaquin Groundwater Sustainability Agency as a Joint Powers Authority. Pursuant to the provisions of Article 1, Chapter 5, Division 7 of Title 1 of the California Government Code, commencing with section 6500, the Agency shall be a public agency, and a legal entity separate from its constituent members.

3.4 **Purposes of the Agreement.** The purposes of this Agreement are to:

a. Create a joint powers authority separate from its constituent Members to cooperatively carry out the purposes of SGMA;

b. Authorize the joint exercise of powers common to each Member and those granted to a GSA pursuant to SGMA, to carry out the purposes of a GSA and otherwise manage the groundwater resources in the Agency Managed Area;

c. Expressly define the purpose, powers, reservations, and limitations of the Agency; and,

d. Create a single entity to collectively represent the Members in the Eastern San Joaquin Groundwater Authority.

3.5 Powers of the Agency. To the extent authorized by the Members through the Board of Directors, and subject to the limitations set forth in this Agreement, the Agency shall have and may exercise any and all powers commonly held by the Members in pursuit of Article 3.4 Purposes of the Agreement, including but not limited to the power to:

a. Coordinate the implementation of SGMA between and amongst the Members in accordance with this Agreement;

b. Coordinate the exercise of common powers of its Members including, without limitation, powers conferred to the Agency by SGMA;

c. To adopt rules, regulations, policies, bylaws and procedures related to the activities of the Agency;

d. To borrow funds so long as a Dedicated Revenue Stream is committed by one or more Members for repayment;

e. To issue revenue bonds in accordance with the requirements under the Joint Exercise of Powers Act;

f. Employ agents, consultants, advisors, independent contractors, and employees;

g. Make and enter into contracts with public or private entities, including the State of California and the United States;

h. Accept contributions, grants, and loans from any public or private agency for the purpose of financing Agency activities;

i. Sue and be sued;

j. Reimburse Members for actual amounts of reasonable and necessary expenses incurred in supporting Agency activities, as agreed to by the Agency; and

k. To perform all acts necessary or proper to carry out fully the purposes of this Agreement; and to exercise all other powers necessary and incidental to the implementation of the powers set forth herein.

3.6 Powers Reserved to Members.

- a. Each Member reserves the sole and absolute right, in its sole discretion, to become a GSA individually within the Member's jurisdictional boundaries;
- b. RIPON and ESCALON shall each have the sole and absolute right, in their sole discretion, to implement the portion, section or chapter of the adopted GSP as applicable within their respective boundaries or as applicable to the respective Member's Water Assets managed in whole or in part by RIPON or ESCALON. SSJID will have the sole and absolute right, in its sole discretion, to implement the portion, section or chapter of the adopted GSP as applicable within its boundaries and outside the jurisdictional boundaries of RIPON and ESCALON or as applicable to SSJID's Water Assets, regardless of location, managed in whole or in part by SSJID;
- c. At each individual Member's election, the Agency may implement the adopted GSP within the Member's jurisdictional boundaries as managed in whole or in part by such Member;
- d. At each individual Member's election, the Eastern San Joaquin Groundwater Authority or designee may implement the adopted GSP within the Member's jurisdictional boundaries as managed in whole or in part by such Member; and
- e. Notwithstanding anything to the contrary in this Agreement, neither RIPON nor ESCALON shall undertake any activities outside their own respective geographic or service area boundaries, and SSJID shall not undertake any activities within the geographic or service area boundaries of RIPON or ESCALON pursuant to the adopted GSP, unless the affected Member has formally and expressly consented and agreed to the activity proposed.
- f. Nothing in this Agreement shall be interpreted to convey additional rights to Members individually or collectively, nor convey additional permissions for Water Asset related activities within another Member's jurisdictional boundaries.

3.7 Privileges and Immunities. All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, workmen's compensation, and other benefits which apply to the activity of officers, agents or employees of any Member public agency when performing their respective functions within the territorial limits of their respective public agencies, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this Agreement.

3.8 Term. This Agreement shall be effective as of the Effective Date and shall remain in effect unless and until terminated in accordance with Article 6.5 of this Agreement.

3.9 **Boundaries of the Agency.** The Agency Managed Area is within the geographic boundaries of the Agency and that portion of the Basin that will be managed by the Agency pursuant to SGMA as depicted in **EXHIBIT A**. The Members acknowledge that a Member's boundaries may increase or decrease over time and the Agency Managed Area will be updated based on approved annexations and de-annexations.

3.10 **Role of Member Agencies.** Each Member agrees to undertake such additional proceedings or actions as may be necessary in order to carry out the terms and intent of this Agreement. The support of each Member is required for the success of the Agency. This support will involve the following types of actions:

a. Prior to the adoption of the GSP or subsequent updates by the Agency, each Member's governing body shall authorize its appointed Director to the Agency Board to approve the adoption of the GSP.

b. The Members will provide support to the Agency, its agents, other Members, and to the Eastern San Joaquin Groundwater Authority, in the implementation of the adopted GSP by making available staff, data, information, and access to facilities within available resources and reasonably necessary for the implementation of the GSP.

c. Each Member shall contribute its share of capital and operational fund allocations, as approved by the Board of Directors in the annual budget.

d. Reimbursement of costs for personnel, goods, services, equipment or property may be made to the Agency by any Member to implement activities pursuant to this Agreement, provided that only the Board of Directors of the Agency may approve repayment for such contributions and only if so adopted as part of the Agency Budget.

3.10 **Other Officers and Employees.** The Members do not anticipate that the Agency will have any employees; however, the Agency may do the following:

a. Provide that any employee of a Member, with the express approval of that Member and the Agency Board of Directors, may be an *ex officio* employee of the Agency, and shall perform, unless otherwise provided by the Board, the same various duties for the Agency as for his or her other employer in order to carry out this Agreement.

b. The Board shall have the power to retain the services of engineers and other consultants to assist and advise the Agency in implementing the GSP and fulfilling its obligations as a GSA under SGMA.

ARTICLE 4: GOVERNANCE

4.1 **Board of Directors.** The business of the Agency shall be governed by a five member Board of Directors that is hereby established. Three Directors shall be representatives of SSJID, one Director shall be a representative of RIPON, and one Director shall be a representative of ESCALON. For each new Member approved in accordance with 6.1 Changes to Membership of this Agreement, the Board of Directors shall be expanded by two additional

Directors. One additional Director shall be a representative of the new Member and one additional Director shall be a representative of SSJID. Each Director must be appointed by the legislative body of the Member represented. The Directors may, but are not required to be, elected members of the legislative body of the Member. Each Director shall certify to the Secretary in writing that he or she has been appointed to be a Director by the legislative body of the Member. The legislative body of each Member shall appoint at least one Alternate Director. Alternate Directors have no vote at Board of Director meetings if the primary Director is present. If the primary Director is not present, the Alternate Director shall be entitled to participate in all respects as a primary Director. Directors and Alternate Directors shall serve at the pleasure of their appointing Member's governing board and may be replaced at any time. Upon removal of a Director, the Alternate Director shall serve as the primary Director until a new Director is appointed by the Member's legislative body. Each Member shall notify the Agency in writing of its most current designated representative on the Agency Board of Directors.

4.2 Term of Directors. Directors and Alternate Directors will serve until replaced by their respective Member's legislative body.

4.3 Officers. The Board of Directors shall elect a Chairperson, a Vice-chairperson, and designate an Administrator, a Board Secretary and a Treasurer. The Chairperson and Vice-chairperson shall be Directors and the Administrator, Board Secretary and Treasurer may, but need not, be Directors.

- a. The Chairperson shall preside at all meetings of the Board;
- b. The Vice-chairperson shall act as the Chairperson in the absence of the Chairperson.
- c. The Members hereby designate the SSJID General Manager as the Administrator of the Agency.
- d. The Board Secretary shall be the keeper of Agency records. The Board Secretary shall prepare agendas for meetings in accordance with the Ralph M. Brown Act, keep minutes of all meetings and shall, as soon as possible after each meeting, forward a copy of the minutes to each Director and Alternate Director. The Board Secretary shall provide agendas to each Member for posting in accordance with the Ralph M. Brown Act.
- e. The Treasurer shall meet the qualifications set out in Government Code section 6505.5 as a depositary of funds for the Agency.
- f. All Officers shall be chosen at the first Board meeting and serve a term of two (2) years. An Officer may serve for multiple consecutive terms. Any Officer may resign at any time upon written notice to the Board of Directors.

4.4 Powers and Limitations. All the powers and authority of the Agency shall be exercised by the Board, subject, however, to the rights reserved by the Members as set forth in this Agreement. For purposes of Government Code Section 6509, such powers are subject to the restrictions upon the manner of exercising the powers as imposed upon the SSJID, an irrigation district operating under and by virtue of Division 11 of the California Water Code.

4.5 **Quorum.** A majority of the Board of Directors, with at least one Director or Alternate Director from each Member, shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of the Board of Directors may be adjourned from time to time by a majority present, but no other business may be transacted.

4.6 **Voting.** Except as to actions identified in Sections 4.7 and 5.5, the Board of Directors will conduct all business by majority vote. Prior to voting, the Board shall endeavor in good faith to reach consensus on the matters to be determined. If any Director objects to a proposed action item, the Board shall work in good faith to reasonably resolve such objection. If a Director's objection is not resolved collaboratively, the matter will nonetheless proceed to a vote for final resolution as outlined under this Section 4.6, Section 4.7, or Section 5.5 below, as applicable.

4.7 **Supermajority Vote Requirement for Certain Actions.** The following actions will require a two-thirds (2/3) vote by the directors present and with at least one Director from each of the Members voting in favor of the action:

- a. Decisions related to the levying of taxes, assessments or property-related fees and charges;
- b. Decisions related to the approval of construction or other major projects, acquisition of real estate, or the exercise of eminent domain powers;
- c. Decisions related to the expenditure of funds by the Agency beyond expenditures approved in the Agency's annual budget;
- d. Adoption of rules, regulations, policies, bylaws, and procedures related to the function of the Agency;
- e. Decisions related to the establishment of the annual budget and Members' percentage obligations for payment of the Agency's costs as provided in Article 5.1; and
- f. Approval of a GSP.

4.8 **Meetings.** The Board shall provide for regular and special meetings in accordance with the Ralph M. Brown Act.

4.9 **Advisory Committees.** The Board 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. A chair and members of each committee may be constituted by such individuals approved by the Board for participation on the committee. However, no committee or participant on such committee shall have any authority to act on behalf of the Agency.

4.10 **Technical Advisory Committee.** The Board shall establish a Technical Advisory Committee made up of Member staff. At least one staff member from each Member may serve on the Technical Advisory Committee. The Technical Advisory Committee shall

develop a process to direct and coordinate Agency activities, including the development, planning, financing, environmental review, permitting, implementation, and long-term monitoring of the adopted GSP, and/or for the Agency's participation in the Eastern San Joaquin Groundwater Authority. The Technical Advisory Committee may delegate tasks and responsibilities to Member staff. The Technical Advisory Committee shall keep the Board apprised of its activities, and may from time to time be asked by the Board to attend Board meetings for the purpose of answering questions and providing information.

In addition to being responsible for advising the Board in the development and implementation of the GSP in the Agency Managed Area, the Technical Advisory Committee shall be responsible for advising or making recommendations to the Board of Directors regarding:

- a. Adoption of rules, regulations, policies, bylaws and procedures related to the activities of the Agency;
- b. Approval of work plans, budgets and schedules for projects and programs implemented as part of the adopted GSP;
- c. Approval of GSP-related projects and programs;
- d. The Agency's annual budget, Members' cost-share allocation, financing mechanisms;
- e. Hiring of agents, consultants, advisors, independent contractors, and employees;
- f. Approval of contracts with public or private entities, including the State of California and the United States;
- g. Securing of contributions, grants, and loans from any public or private agency for the purpose of financing Agency activities;
- h. Legislative or policy matters; and
- i. Any other matter(s) delegated to the Committee by the Board of Directors.

4.11 **By-Laws.** The Board may adopt by-laws to supplement this Agreement. In the event of conflict between this Agreement and the by-laws, the provisions of this Agreement shall govern.

4.12 **Duties of Administrator.** The Administrator of the Agency shall be responsible for executing the directives of the Board of Directors, and directing agents, consultants, advisors, independent contractors, and the Board Secretary.

ARTICLE 5: FINANCIAL PROVISIONS

5.1 **Contributions and Expenses.** Members shall share in the general operating and administrative costs of the Agency in accordance with percentages determined by the Agency Board of Directors. Each Member will be assessed no more than quarterly, beginning on

January 1 of each year. Members shall pay assessments within thirty (30) days of receiving an assessment notice from the Treasurer. Each Member will be solely responsible for raising funds for payment of the Member's share of operating and administrative costs. The obligation of each Member to make payments under the terms and provision of this Agreement is an individual and several obligation and not a joint obligation with those of the other Members.

5.2 Initial Contributions. New members shall contribute to the Agency an amount determined by the Board of Directors. Such funds may be used at the discretion of the Board of Directors to fund the activities of the Agency. New members will be subject to all financial contributions as determined in accordance with Article 6.1 Changes to Membership.

5.3 Liability of Board and Officers. The funds of the Agency may be used to defend, indemnify and hold harmless the Agency, any Director, officer, employee, or agent for actions taken within the scope of the authority of the Agency. Nothing herein shall limit the right of the Agency to purchase insurance including but not limited to Directors and officers liability insurance.

5.4 Limit on Liability of Members. No debt, liability, contract, obligation, employee, or agent of the Agency or its Board of Directors shall be or constitute thereby a debt, liability, contract, obligation, employee, or agent of the parties or any of them, and no action or omission of the parties or any of them shall be attributable to the Agency or the Agency's Members.

5.5 Refund of Funds. No refund of the initial commitment of funds specified in Section 5.2 will be made to a Member ceasing to be a Member of this Agreement, whether pursuant to removal by the Board of Directors or pursuant to a voluntary withdrawal. The refund or repayment of any other contribution shall be made in accordance with the terms and conditions upon which the contribution was made, the terms and conditions of this Agreement or other agreement of the Agency and withdrawing Member.

5.6 Budget. The Agency's fiscal year shall run from January 1 through December 31. Each fiscal year, the Board shall adopt a budget for the Agency for the ensuing fiscal year. Within ninety (90) days of the effective date of this Agreement, the Board shall adopt a budget. Thereafter, a budget shall be adopted no later than December 1 of the preceding fiscal year. The budget must be adopted by the Board in accordance with Article 4.7 Supermajority Vote Requirement for Certain Actions.

5.7 Alternate Funding Sources. The Board may obtain State of California or federal grants but shall not create indebtedness without securing a Dedicated Revenue Stream.

5.8 Depositary. The Board shall designate a Treasurer of the Agency, who shall be the depositary and have custody of all money of the Agency, from whatever source, subject to the applicable provisions of any indenture or resolution providing for a trustee or other fiscal agent. All funds of the Agency shall be held in separate accounts in the name of the Agency and not commingled with funds of any Member or any other person or entity.

5.9 Accounting. Full books and accounts shall be maintained for the Agency in accordance with generally accepted accounting principles. The books and records of the Agency

shall be open to inspection by the Members at all reasonable times, and by bondholders and lenders as and to the extent provided by resolution or indenture.

5.10 **Audit.** A qualified individual or firm, serving in the capacity of auditor, shall audit the records and the accounts of the Agency annually in accordance with the provisions of Government Code section 6505. Copies of such audit reports shall be filed with the State Controller and each Member upon completion of the audit.

5.11 **Expenditures.** All expenditures within the designations and limitations of the applicable approved budget shall be made upon the approval of any officer so authorized by the Board of Directors. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the approval and written order of the Board. The Board shall requisition the payment of funds only upon approval of claims or disbursements in accordance with policies and procedures adopted by the Board.

ARTICLE 6: CHANGES TO MEMBERSHIP, WITHDRAWAL AND TERMINATION

6.1 **Changes to Membership.** The Agency Board of Directors will have the authority to (1) approve the addition of new members to the Agency; and (2) remove a Member involuntarily, in accordance with this Article. To join the Agency, a prospective new Member must: (1) be eligible to join a groundwater sustainability agency as provided by SGMA; (2) pay all previously incurred costs that the Board of Directors determines to have benefitted the prospective new Member, including the initial contribution per Section 5.2; (3) agree in writing to the terms and conditions of this Agreement; and (4) be approved for membership by the Members.

6.2 **Noncompliance.** In the event any Member: (1) fails to comply with the terms of this Agreement; or (2) undertakes actions that conflict with or undermine the functioning of the Agency or the preparation or implementation of the GSP, such Member shall be subject to the provisions for involuntary termination set forth in of Section 6.3 of this Agreement. Member actions that could trigger involuntary termination include, but are not limited to: failure to pay agreed upon contributions when due; refusal to participate in GSA activities or to provide required monitoring of sustainability indicators; obstructing or frustrating business activities of the Agency; refusal to enforce controls as required by the adopted GSP; and refusal to implement any necessary actions as outlined by the adopted GSP minimum thresholds that are likely to lead to “undesirable results” under SGMA. Before involuntary termination may be initiated, the majority of the Board (excluding Directors of the Member subject to involuntary termination) must first make a determination that: (1) the Member has failed to comply with the terms of this Agreement; and/or (2) the Member has undertaken actions that conflict with or undermine the functioning of the Agency or implementation of the adopted GSP. After such Board determination, the Member shall be afforded a period of thirty (30) days to cure their non-compliance and/or conflicting or undermining behavior. If the Member fails to rectify their behavior to the satisfaction of the Board within thirty (30) days, then the Board may initiate the involuntary termination process.

6.3 Involuntary Termination. Upon the determination by a majority of the Board of Directors (excluding Directors of the Member subject to involuntary termination) that the actions of a Member: (1) fail to comply with the terms of this Agreement; or (2) conflict with or undermine the functioning of the Agency or the preparation and implementation of the requirements of the GSP; the Board of Directors may terminate that Member's membership in this Agency, provided that prior to any vote to remove a Member involuntarily, the Board complies with the procedures outlined in Section 6.2 Noncompliance above. Upon termination of membership, the Member terminated and its property interests, obligations, and liabilities shall be treated in the same manner as a withdrawn member under Section 6.4. The Members remaining shall continue to conduct business of the Agency in accordance with this Agreement.

6.4 Withdrawal of Members. A Member may, in its sole discretion, unilaterally withdraw from the Agency, effective upon thirty (30) days' prior written notice to the Agency provided that the withdrawing Member remains responsible for its proportionate share of any obligation or liability duly incurred by the Agency, in accordance with Article 5.1. In the event the withdrawing Member has any rights in any property or has incurred obligations to the Agency, the Member may not sell, lease or transfer such rights or be relieved of its obligations, except in accordance with a written agreement executed by it and the Agency. The Agency may not sell, lease, transfer or use any rights of a Member who has withdrawn without first obtaining the written consent of the withdrawing Member. If a Member withdraws, it must provide a means to manage the area that is withdrawn from the Agency Managed Area, to avoid a designation of "probationary status" under SGMA.

6.5 Termination. The term of this Agreement is indefinite and the Agreement may be terminated only upon unanimous written consent of all the Members. However, in the event of termination, each of the Members will remain responsible for its proportionate share of any obligation or liability duly incurred by the Agency consistent with this Agreement. Nothing in this Agreement will prevent the Members from withdrawing from the Agency or from entering into other joint exercise of power agreements.

6.6 Disposition of Property upon Termination. Upon termination of this Agreement, the assets and liabilities of the Agency shall be transferred to the Agency's successor, provided that a public entity will succeed the Agency, or in the event that there is no successor public entity, to the Members in proportion to the contributions made by each Member. If the successor public entity will not assume all of the Agency's transferable assets and liabilities, the Board shall distribute the Agency's transferable assets and liabilities among the successor entity and the Members in proportion to any obligation required by Sections 5.1 or 5.6.

6.7 Use of Data. Upon withdrawal, any Member shall be entitled to use any data or other information developed by the Agency during its time as a Member. Further, a Member withdrawn from the Agency shall be entitled to utilize the adopted GSP for future implementation of SGMA within its jurisdictional boundaries.

ARTICLE 7: SPECIAL PROJECTS

7.1 Fewer than all of the Members may enter into a special project agreement to achieve any of the purposes or activities authorized by this Agreement, and to share in the expenses and costs of such special project, for example, to share in funding infrastructure improvements within the jurisdictional boundaries of only those Members. Special project agreements must be in writing and documentation must be provided to each of the Members to this Agreement.

7.2 Members that enter into special project agreements agree that any special project expenses incurred for each such special project are the sole costs of the special project participants, respectively, and not of any other Members to this Agreement not participating in the special project, and the special project expenses shall be paid by the parties to the respective special project agreements.

7.3 Members participating in special project agreements if conducted by the Agency, shall hold each of the other parties to this Agreement who are not parties to the special project agreement free and harmless from and indemnify each of them against any and all costs, losses, damages, claims and liabilities arising from the special project agreement. The indemnification obligation of Members participating in special project agreements shall be the same as specified in Article 8.2 for Members in general, except that they shall be limited to liabilities incurred for the special project.

ARTICLE 8: MISCELLANEOUS PROVISIONS

8.1 **Amendments.** This Agreement may be amended only by a subsequent writing approved by all Members' governing boards and signed by all Members. Approval from a Member is valid only after the Member's legislative body approves the amendment at a public meeting. Member staff, Agency agents and individual Directors of the Board do not have the authority, express or implied, to amend, modify waive or in any way alter this Agreement of the terms and conditions hereto.

8.2 **Indemnification.** No Member, nor any officer or employee of a Member, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by another Member under or in connection with this Agreement. The Members further agree, pursuant to California Government Code section 895.4, that each Member shall fully indemnify and hold harmless the other Members and their respective agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by the indemnifying Member under this Agreement. Each Member shall additionally include within any third party contract entered into in furtherance of this Agreement, provisions requiring the contractor, consultant or vendor to indemnify, defend and hold harmless the other Members to the same extent as the contracting Member is indemnified.

8.3 **Insurance.** Each Member shall include within any third party contract entered into in furtherance of this Agreement, provisions requiring the contractor, consultant or vendor to

provide insurance coverage to the other Members equivalent to the coverage provided to the contracting Member. Without limiting the foregoing and to the extent the following policies are required by the contract, the non-contracting members shall: (1) be named as additional insureds and provided coverage on a primary and non-contributory basis on the contractor, consultant or vendor's policies of commercial general liability and business automobile liability insurance; and (2) be included in any waiver of subrogation endorsements issued on the commercial general liability, business automobile liability and workers' compensation/employer's liability policies.

8.4 Binding on Successors. Except as otherwise provided in this Agreement, the rights and duties of the Members may not be assigned or delegated without a unanimous vote by the Members. Any approved assignment or delegation shall be consistent with the terms of any contracts, resolutions, indemnities and other obligations of the Agency then in effect. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of the Members hereto.

8.5 Interagency Communication. To provide for consistent and effective communication between Members, the Members agree to designate one staff representative as its central point of contact on matters relating to this Agreement. Additional representatives may be appointed to serve as points of contact on specific actions or issues.

8.6 Notice. All notices, statements, or payments related to performance under this Agreement shall be deemed to have been duly given if transmitted in writing and either delivered personally or mailed by first-class, registered, or certified mail as follows to the following individuals or their successors:

South San Joaquin Irrigation District
Peter Rietkerk, General Manager
11011 E. Highway 120
Manteca, California 95366

City of Ripon
Kevin Werner, City Administrator
259 North Wilma Avenue
Ripon, California 95366

City of Escalon
Tammy Alcantor, City Manager
2060 McHenry Avenue
Escalon, California 95320

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

8.8 **Choice of Law.** This Agreement is made in the State of California, under the Constitution and laws of such State and is to be so construed.

8.9 **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.

8.10 **Headings.** The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Members to this Agreement.

8.11 **Construction and Interpretation.** This Agreement has been arrived at through negotiation and each Member has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting Member shall not apply in the construction or interpretation of this Agreement.

8.12 **Entire Agreement.** This Agreement constitutes the sole, entire integrated and exclusive agreement among the Members regarding the contents herein. Any other contracts, agreements, terms, understandings, promises or representations not expressly set forth or referenced in this writing are null and void and of no force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

SOUTH SAN JOAQUIN IRRIGATION DISTRICT

Dated: 6/11/2020

By: 
Peter Rietkerk, General Manager

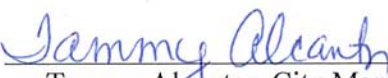
CITY OF RIPON

Dated: 6/12/2020

By: 
Kevin Werner, City Administrator

CITY OF ESCALON

Dated: 6/15/2020

By: 
Tammy Alcantor, City Manager