



## MEMORANDUM

TO: SLDMWA Water Resources Committee and Board of Directors, Alternates

FROM: Rebecca Akroyd, General Counsel

DATE: July 31, 2019

RE: Execution of the Amended and Restated Joint Exercise of Powers Agreement Creating the San Joaquin Valley Water Infrastructure Authority (SJWVIA) and Appointment of Director and Alternate to SJWVIA Board of Directors

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### BACKGROUND

The San Joaquin Valley Water Infrastructure Authority (SJWVIA) was formed by the counties of Fresno, Kings, Madera, Merced, and Tulare in 2015 to solicit grant funding for water infrastructure projects, with a focus on local surface storage projects, groundwater recharge projects, and construction of the Temperance Flat Dam project. The San Luis & Delta-Mendota Water Authority (Water Authority), City of Fresno, Friant Water Authority, San Joaquin River Exchange Contractors Water Authority, the City of Avenal, and the City of Orange Cove later joined as members.

After the members of the SJWVIA decided to transfer the handling of the Temperance Flat Reservoir Project to a separate entity, the SJWVIA became less active. The Water Authority last authorized dues in August 2018, for one quarter of membership (\$12,500), with the understanding that the SJWVIA would be wrapping up and shutting down. The Water Authority's representation on the SJWVIA during this wrapping up period has been Chairman Cannon Michael, with an alternate of Alternate Chris White.

Since this time, the parties to the SJWVIA have discussed the appropriate focus of the SJWVIA going into the future. In recent SJWVIA meetings, the parties have discussed revising the purpose of the entity for a "new" SJWVIA, with essentially the same membership as the original SJWVIA – the counties of Fresno, Kings, Madera, Merced, and Tulare, the City of Fresno, the Friant Water Authority, the San Joaquin River Exchange Contractors Water Authority, and the Water Authority. The SJWVIA has prepared an Amended and Restated Joint Exercise of Powers Agreement (Amended JPA). The amendments to the JPA effectively maintain the membership of the JPA while changing its primary purpose. Several of the parties listed above have already authorized execution of the Amended JPA.

If the Board authorizes execution of the Amended JPA, staff recommends that the Board approve management staff to serve as the Water Authority's representatives on the new Board of Directors, to allow direct engagement on possible projects for the SJVWIA to support.

#### **ISSUES FOR DECISION**

1. Whether the Water Resources Committee should recommend to the Board of Directors and the Board of Directors should authorize execution of the Amended JPA, in substantially the form presented to the Committee and Board.
2. Whether the Board of Directors should appoint Federico Barajas and Scott Petersen to serve as the Water Authority's Director and Alternate on the SJVWIA Board of Directors, respectively.

#### **RECOMMENDATIONS**

1. We recommend the Water Resources Committee recommend, and the Board of Directors authorize execution of the Amended JPA, in substantially the form presented to the Committee and the Board of Directors.
2. We recommend the Board of Directors appoint Federico Barajas as the Water Authority's SJVWIA Director and Scott Petersen as Alternate on the SJVWIA Board of Directors.

#### **ANALYSIS**

The "new" SJVWIA will be a structure that allows the parties to support San Joaquin Valley water infrastructure improvement and natural resource management projects through the solicitation of funding and the administration of the disbursement and expenditure of said funds on qualified projects.

The changes in the Amended JPA facilitate the transition of the SJVWIA from overseeing the Temperance Flat Reservoir Project to supporting other activities that benefit the San Joaquin Valley and its water supply. Notable areas of the proposed Amended JPA include:

- Article 3 - Purpose. *"The purpose of this Agreement is to provide for the joint exercise, through the Authority, of powers common to each of the Parties. The purpose of the Authority is to use the collective knowledge, resources, expertise, and influence of its members to advance the management of water and other natural resources in the San Joaquin Valley. It is the intent of the Parties that this Authority provide advocacy, advice, and/or other proper support to counties, cities, unincorporated communities, water agencies, and/or state or federal agencies to assist with development of San Joaquin Valley water infrastructure improvement and natural resource management projects, development of which would be in the public interest. Support for such project[s] would include, but not be limited to, the solicitation of funding and the administration of the disbursement and expenditure of said funds on qualified projects."*

- Article 5 – Membership in the Authority. Places some limits on membership. For example, only one city (Fresno) and two disadvantage communities can be members. The limitations may be addressed, however, through the use of “Participation Agreements” between the SJVWIA and other public agencies that would permit such public agencies to participate in grants.
- Article 14.2 - Annual Contributions. If a party declines to pay any annual assessment within a set time period, it will be deemed have initiated a 180-day notice of intent to terminate its membership in the SJVWIA, and would also lose voting rights during any period of payment until the six-month termination period.

The SJVWIA is proposing, at least initially, to have no permanent staff, use resources from its member agencies to provide support, and to require no initial contributions from members. This will help reduce cost.

#### **BUDGET**

The Water Authority’s membership in the amended JPA will have no immediate budget implications; the Amended JPA allows the SJVWIA Board of Directors to approve an annual budget, but the assessment of an annual contribution is not a foregone conclusion. We understand the intent is for SJVWIA members to decide whether to fund projects through separate agreement rather than through required membership contributions.

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**AMENDED AND RESTATED  
JOINT EXERCISE OF POWERS AGREEMENT  
CREATING  
THE SAN JOAQUIN VALLEY WATER INFRASTRUCTURE  
AUTHORITY (SJVWIA)**

**EFFECTIVE DATE: \_\_\_\_\_, 2019**

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**AMENDED AND RESTATED JOINT EXERCISE OF POWERS AGREEMENT**

**CREATING THE SAN JOAQUIN VALLEY WATER INFRASTRUCTURE AUTHORITY (SJVWIA)**

This Amended and Restated Agreement (“Agreement”) is made and entered into effective \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and among the counties of FRESNO, KINGS, MADERA, MERCED, and TULARE (“County Parties”); the CITY OF FRESNO (City Party); the FRIANT WATER AUTHORITY, the SAN LUIS & DELTA –MENDOTA WATER AUTHORITY, and the SAN JOAQUIN RIVER EXCHANGE CONTRACTORS WATER AUTHORITY (“Water Agency Parties”), and the cities of AVENAL and ORANGE COVE (DAC Parties). Each entity listed above is a public agency as defined by California Government Code section 6500, is a “Party” to this Agreement, and all the entities listed above together are “the Parties” to this Agreement.

**RECITALS**

**WHEREAS**, as of the 17<sup>th</sup> day of November, 2015, the counties of FRESNO, KINGS, MADERA, MERCED, and TULARE, hereinafter referred to as the “Original County Parties,” executed an Agreement, hereinafter referred to as the “Original Agreement,” which established the San Joaquin Valley Water Infrastructure Authority, hereinafter referred to as the “Authority,” and set forth the powers and duties of the Authority; and

**WHEREAS**, the Original Agreement includes provisions for other public agencies to become members of the Authority;

**WHEREAS**, the CITY OF FRESNO, the FRIANT WATER AUTHORITY, the SAN LUIS & DELTA-MENDOTA WATER AUTHORITY, the SAN JOAQUIN RIVER EXCHANGE CONTRACTORS WATER AUTHORITY, the CITY OF AVENAL, and the CITY OF ORANGE COVE have joined the Authority as members;

**WHEREAS**, the Parties named above desire to continue as members of the Authority;

**WHEREAS**, the Original Agreement provides in Article 20 that the Agreement may be amended “from time to time by the written consent of the governing body of all the Parties;”

**WHEREAS**, the Parties desire to amend and restate the Original Agreement in its entirety;

1           **WHEREAS**, Article 1, Chapter 5, Division 7, Title 1 of the California Government Code (Section 6500  
2 et seq.) permits two or more public agencies by agreement to exercise jointly powers common to the  
3 contracting parties;

4           **WHEREAS**, the Parties each are public agencies which have the common power, pursuant to  
5 California Government Code section 23004(c), to make contracts necessary to the exercise of their  
6 respective powers;

7           **WHEREAS**, the Parties now desire to modify and expand the purposes of said joint powers agency  
8 to more comprehensively support, assist, and benefit San Joaquin Valley people, businesses, agriculture,  
9 and other industries represented by the Parties within their respective jurisdictions with activities, programs,  
10 and projects directed at improving, maintaining, sustaining, and protecting water supplies and infrastructure  
11 upon which the region depends, thus mitigating imbalances and other negative impacts that have been  
12 experienced;

13           **WHEREAS**, said activities, endeavors and undertakings may include, but are not limited to,  
14 measures of advocacy, advice, support and involvement on qualified local and regional infrastructure  
15 projects and facilities such as surface water conveyance, groundwater recharge and banking, surface water  
16 storage, water conservation, water reclamation and water quality improvement; and enhanced wildland,  
17 forest management and related watershed practices;

18           **WHEREAS**, the Parties can through cooperation present more comprehensive and effective grant  
19 proposals with greater efficiency than they could obtain by their individual efforts;

20           **WHEREAS**, collaboration and consolidation of governmental action benefits the public and the  
21 taxpayer, and if the Parties determine that it is to their mutual benefit, the Parties believe the SJVWIA should  
22 provide access to other public agencies in proximity to and with interests similar to those of the Parties by  
23 considering the execution of a Participation Agreement among the SJVWIA and such other public agencies  
24 that would permit such other public agencies to participate in the grant formation and solicitation process in  
25 the future, provided that such other public agencies make financial commitments similar to those made by  
26 the Parties in connection with this Agreement, as provided herein; and

27           **WHEREAS**, said activities, associations and participation shall be subject to financial commitments,  
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1 arrangements and agreements among and with the member Parties and any other participating agencies to  
2 pay for their respective costs thereof as provided herein.

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**NOW THEREFORE**, in consideration of their mutual promises, covenants and conditions, hereinafter set forth, the sufficiency of which is acknowledged, the Parties agree as follows:

**ARTICLE 1**

**DEFINITIONS**

**"Authority"** shall mean the SJVWIA created by this Agreement.

**"Biweekly"** shall mean an event or act which only occurs once every two weeks.

**"Board of Directors"** shall mean the governing body of the Authority.

**"Fiscal year"** shall mean that period of twelve months which is established by the Board of Directors as the fiscal year of the Authority.

**"Government Code"** shall mean the California Government Code.

**"Joint Powers Law"** shall mean Article 1, Chapter 5, Division 7, Title 1 (commencing with Section 6500) of the Government Code.

**"Water Agency"** shall mean an independent irrigation district, reclamation district, water district or any other independent local governmental entity, other than a city or county, which obtains, manages and provides water to residential, industrial, commercial or agricultural users, or a joint powers authority that represents water agencies, as defined.

**"SJVWIA"** shall mean the San Joaquin Valley Water Infrastructure Authority.

**ARTICLE 2**

**CREATION OF SJVWIA**

Pursuant to the Joint Powers Law, there is hereby created a public entity separate and apart from the Parties, to be known as the San Joaquin Valley Water Infrastructure Authority ("SJVWIA" or the "Authority"), with such powers as are hereinafter set forth. The debts, liabilities and obligations of the



1 Authority shall be the debts, liabilities or obligations of the Authority alone and shall not constitute debts,  
2 liabilities, or obligations of any party to this Agreement, except with respect to the retirement liabilities of  
3 the agency if the agency contracts with a public retirement system, and notwithstanding the payment of  
4 respective costs and expenses as referenced in the Recitals, Article 15 and throughout the Agreement. The  
5 Authority, its Board, officers, membership and staff shall be governed by this Agreement, the Bylaws, and  
6 other documents duly adopted by the Authority.

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8 **ARTICLE 3**

9 **PURPOSE**

10 The purpose of this Agreement is to provide for the joint exercise, through the Authority, of powers  
11 common to each of the Parties. The purpose of the Authority is to use the collective knowledge, resources,  
12 expertise, and influence of its members to advance the management of water and other natural resources in  
13 the San Joaquin Valley. It is the intent of the Parties that this Authority provide advocacy, advice, and/or  
14 other proper support to counties, cities, unincorporated communities, water agencies, and/or state or federal  
15 agencies to assist with development of San Joaquin Valley water infrastructure improvement and natural  
16 resource management projects, development of which would be in the public interest. Support for such  
17 projects would include, but not be limited to, the solicitation of funding and the administration of the  
18 disbursement and expenditure of said funds on qualified projects.

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20 **ARTICLE 4**

21 **TERM**

22 This Agreement shall continue in full force and effect until terminated as provided herein.

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24 **ARTICLE 5**

25 **MEMBERSHIP IN THE AUTHORITY**

26 5.1 **PARTIES JOIN AUTHORITY BY FORMAL ADOPTION OF AGREEMENT.**

27 Additional public agencies may become Parties to the Authority according to the terms of this Article.  
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1 Upon a four-fifths (4/5) vote of the Board, additional public agencies may join the Authority as Parties through  
2 formal adoption and execution of this Agreement by their respective governing board or body. No  
3 amendment of this Agreement is required, provided that, including the Parties named above, the following  
4 limitations to total membership shall apply:

5 COUNTY PARTIES: There may be up to seven (7) County Parties;

6 CITY PARTY: There shall be one (1) City Party which is not designated a Disadvantaged Community for the  
7 purposes of this Agreement, and that shall be the City of Fresno;

8 WATER AGENCY PARTIES: There may be up to six (6) Water Agency Parties;

9 TRIBAL PARTIES: Up to two (2) federally recognized Native American Tribes with Tribal Lands within the  
10 jurisdiction of any of the County Parties may join the Authority as Tribal Parties. The governing board or  
11 authority of the Tribe shall approve this Agreement and cause it to be signed by an authorized  
12 representative. The Tribal Party shall and hereby does, as part of its approval of this Agreement, waive its  
13 sovereign immunity for all purposes related to this Agreement or the Authority;

14 DISADVANTAGED COMMUNITY (DAC) PARTIES: There may be up to two (2) DAC Parties, and those shall  
15 be the cities of Avenal and Orange Cove, unless either has withdrawn from membership To qualify as a DAC  
16 Party, a city must be designated by CalEPA as a Disadvantaged Community and lie within the jurisdiction of  
17 any of the County Parties.

18  
19 **ARTICLE 6**

20 **POWERS OF THE AUTHORITY**

21 The Authority shall have all powers set forth in the Joint Powers Law, and is hereby authorized to do  
22 all acts necessary for the exercise of said powers in furtherance of its purposes. Such powers include, but  
23 are not limited to, the following:

24 (a) To make and enter into contracts, including but not limited to contracts with the Parties  
25 and/or the Federal Government, the State of California, other local governments, public agencies, special  
26 districts, private parties, or companies.

27 (b) To incur debts, liabilities, and obligations.

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1 (c) To acquire, hold, and/or dispose of property, contributions, and donations of property, funds,  
2 services, and other forms of assistance from persons, firms, corporations, and government entities.

3 (d) To sue and be sued in its own name, and to settle any claim against it.

4 (e) To receive and use contributions and advances from the Parties as provided in Government  
5 Code Section 6504, including contributions or advances of personnel, equipment, or property.

6 (f) To invest any money in its treasury that is not required for its immediate necessities,  
7 pursuant to Government Code Section 6509.5.

8 (g) To develop and submit solicitations or applications for funding from the Federal Government,  
9 the State of California, other local governments, public agencies, special districts, private parties, or  
10 companies for water infrastructure or natural resource management projects.

11 (g) To carry out all provisions of this Agreement. Said powers shall be exercised pursuant to  
12 the terms hereof and in the manner provided by law. The responsibility for financing, funding or providing  
13 matching funds for the actual construction of any project shall be the responsibility of the individual local  
14 governmental agency or agencies performing or authorizing such construction and shall not be an obligation  
15 of the Authority. However, the Authority, if it determines a project will have substantial general benefit  
16 throughout the jurisdictions of the County Parties, may take actions to secure financing, funding, or matching  
17 funds and to disburse such funds in furtherance of construction of the project.

18 (i) The Authority may not appropriate, expend, or encumber funds in excess of any amounts  
19 actually approved and contributed by the Parties or actually received from any other source.

20 Pursuant to Government Code section 6509, the aforementioned powers shall be subject to those  
21 restrictions as apply to any of the Parties.

22 **ARTICLE 7**

23 **BOARD OF DIRECTORS**

24 7.1 Composition of the Board of Directors

25 The Authority shall be governed by the Board of Directors, which shall be composed as follows:

26 (a) **COUNTY DIRECTORS:** One director appointed by the Board of Supervisors of each  
27 County Party who shall be a member of the Board of Supervisors of the respective Party, for a total of  
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1 up to seven (7) directors. Each Board of Supervisors of each Party shall also appoint an alternate  
2 director who shall be a member of the respective Party's Board of Supervisors who shall serve in the  
3 absence of the regular director appointed by that Party.

4 (b) **CITY DIRECTOR:** One (1) director appointed by the City Party for a total of one (1)  
5 director. The director may be an elected official or staff member of the City Party. The City Party shall  
6 appoint an alternate director who shall serve in the absence of the regular director appointed by that  
7 Party. Alternate directors may also be elected officials or staff of the City Party.

8 (c) **WATER AGENCY DIRECTORS:** One (1) director appointed by each Water Agency  
9 Party for a total of up to six (6) directors. The director shall be a director, officer, or employee of their  
10 respective Water Agency Party. Each Water Agency Party shall appoint an alternate director who  
11 shall serve in the absence of the regular director appointed by that Party.

12 (d) **TRIBAL DIRECTORS:** One (1) director appointed by each Tribal Party for a total of  
13 up to two (2) directors. The Tribal Party shall appoint an alternate director who shall serve in the  
14 absence of the regular director appointed by the Tribal Party.

15 (e) **DISADVANTAGED COMMUNITY DIRECTORS:** One (1) director appointed by each  
16 Disadvantaged Community (DAC) Party, for a total of up to two (2) directors. The DAC Parties shall  
17 appoint alternate directors who shall serve in the absence of the regular directors appointed by the  
18 DAC Parties.

19 (f) **GENERAL AT-LARGE DIRECTOR:** One (1) director who lives or works within the  
20 jurisdiction of the County Parties, appointed by a majority of the Board of Directors. The At-Large  
21 Director shall be appointed to serve a two (2) year term, beginning from the date of seating on the  
22 Board of Directors following appointment.

#### 23 7.2 Replacement by Alternate Directors

24 County Directors shall serve until removed or replaced by the Board of Supervisors of their  
25 respective County. If, for any reason, a County Director resigns, leaves office, or cannot fulfill the duties of  
26 that position, the Board of Supervisors of the relevant Party County shall appoint a new regular director to  
27 the Board.  
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1 If, for any reason, the General At-Large Director resigns or cannot fulfill the duties of that position,  
2 the remaining members of the Board of Directors shall appoint a new General At-Large Director to complete  
3 the remainder of the General At-Large Director's term.

4 If for any reason, the City Director, a Water Agency Director, a DAC Director, or a Tribal Director  
5 resigns or cannot fulfill the duties of that position, the alternate director appointed by the respective Party  
6 shall become the regular director for the remainder of the applicable term, if any.

7 7.3 Voting Protocols

8 A majority of the membership of the Board of Directors shall constitute a quorum for the transaction  
9 of business. Approval of proposed actions requires a simple majority vote of the full Board of Directors  
10 except as provided herein.

11  
12 **ARTICLE 8**

13 **POWERS OF THE BOARD OF DIRECTORS**

14 The Board of Directors shall have the following powers and functions:

15 (a) The Board of Directors shall exercise all powers and conduct all business of the Authority,  
16 either directly or by delegation to its officers and any staff.

17 (b) The Board of Directors shall elect the officers of the Authority and shall appoint or hire  
18 necessary staff in accordance with Articles 10 and 11 hereof.

19 (c) The Board of Directors shall cause to be prepared, and shall review, modify as necessary,  
20 and adopt the annual operating budget of the Authority.

21 (d) The Board of Directors shall develop, or cause to be developed, and shall review, modify as  
22 necessary, any solicitation or grant application for a project and administrative services necessary to carry  
23 out such solicitation or grant application or the receipt, administration and disbursement of any grant funds  
24 received.

25 (e) The Board of Directors shall provide for necessary services to the Authority and the Parties,  
26 by contract or otherwise, which may include, but shall not be limited to, accounting, auditing, and legal  
27 services.

1 (f) The Board of Directors shall provide general supervision and policy direction to any staff of  
2 the Authority.

3 (g) The Board of Directors shall have such other powers and duties as are reasonably  
4 necessary to carry out the purposes of the Authority, including, but not limited to, establishing Ad Hoc or  
5 Standing Committees of the Authority.

6  
7 **ARTICLE 9**

8 **MEETINGS OF THE BOARD OF DIRECTORS**

9 (a) The Board of Directors shall hold at least one regular meeting each year and shall provide  
10 for such other regular meetings and for such special meetings as it deems necessary.

11 (b) The staff or a delegate of the Authority shall provide for the keeping of minutes of regular  
12 and special meetings of the Board of Directors, and shall provide a copy of the minutes to each member of  
13 the Board of Directors at the next scheduled meeting.

14 (c) All meetings of the Board of Directors shall be called, noticed, held and conducted in  
15 accordance with the provisions of Government Code Section 54950 et seq.

16 (d) The Authority shall provide each of the Parties the agenda, including any supplements  
17 thereof, and any supporting agenda materials of all meetings of the Board of Directors not later than the time  
18 that the Authority publishes notice of such meetings pursuant to paragraph (c), immediately above.

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20 **ARTICLE 10**

21 **OFFICERS**

22 The Board of Directors shall elect from its membership a President and Vice President of the Board  
23 of Directors, to serve for two-year terms. The President, or in his or her absence, the Vice President, shall  
24 preside at and conduct all meetings of the Board of Directors. In the absence of the President and Vice  
25 President, those members of the Board of Directors present may elect a Temporary Presiding Officer.

26  
27 **ARTICLE 11**

28 **ADMINISTRATION**

1 The following staff members shall be appointed by and serve at the pleasure of the Board of  
2 Directors:

3 (a) **Auditor-Treasurer.** The duties of the Auditor-Treasurer are set forth in Article 12 of this  
4 Agreement. Pursuant to Government Code Section 6505.5, the Auditor-Treasurer may be a Certified Public  
5 Accountant or the county auditor-controller of one of the Parties, at the selection of the Authority and subject  
6 to the consent of the applicable county auditor controller to serve as the Authority's Auditor-Treasurer. If a  
7 county auditor-controller is selected, pursuant to Government Code Section 6505, the charges to the  
8 Authority for the services of the Auditor-Treasurer shall be determined by the Board of Supervisors of the  
9 county from which the Auditor-Treasurer is appointed, subject to approval by the Authority.

10 (b) **Other Staff.** The Board of Directors shall provide for the appointment or hire of such other  
11 staff as may be necessary for the administration of the Authority.

12 (c) **Competitive Selection of Experts.** If the Authority determines to retain an expert or  
13 experts to prepare any solicitation or grant application, the selection of said expert(s) shall be made through  
14 a competitive process unless the expert falls within the category of professional expertise which may be  
15 properly selected through a Request for Proposal or other non-competitive process.

16  
17 **ARTICLE 12**

18 **ACCOUNTS AND RECORDS**

19 (a) **Annual Budget.** The Board shall annually adopt an operating budget for the Authority.

20 (b) **Funds and Accounts.** The Auditor-Treasurer of the Authority shall establish and maintain  
21 such funds and accounts as may be required by good accounting practices and by the Board of Directors.  
22 Separate accounts shall be established and maintained for each project under development or adopted and  
23 implemented by the Authority. Books and records of the Authority in the hands of the Auditor-Treasurer shall  
24 be open to inspection at all reasonable times by authorized representatives of the Parties.

25 The Authority shall adhere to the standard of strict accountability for funds set forth in  
26 Government Code Section 6505.

1 (c) **Auditor's Report.** The Auditor-Treasurer, within one hundred and twenty (120) days after  
2 the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year  
3 to the Board of Directors and Parties.

4 (d) **Audit.** Pursuant to Government Code Section 6505, the Authority shall either make or  
5 contract with a certified public accountant to make an audit of all accounts and records of the Authority,  
6 conforming in all respects with the requirements of that section. Pursuant to 6505(f), said audit shall cover a  
7 two-year period. A report of the audit shall be filed as a public record with the Parties and with the county  
8 auditor of the county where the home office of the Authority is located, and shall be sent to any public agency  
9 or person in California that submits a written request to the Authority. The report shall be filed within six  
10 months of the end of the fiscal year or years under examination. Costs of the audit shall be considered a  
11 general expense of the Authority.

12 (e) **Records Retention.** The Authority shall retain records in accordance with applicable laws  
13 and a policy to be established in the Bylaws.

## 14 **ARTICLE 13**

### 15 **RESPONSIBILITIES FOR FUNDS AND PROPERTY**

16 (a) The Auditor-Treasurer shall have the custody of and disburse the Authority's funds. He or  
17 she may delegate disbursing authority to such persons as may be authorized by the Board of Directors to  
18 perform that function, subject to the requirements of (b) below. The Auditor-Treasurer shall hold and  
19 prudently invest any funds for which he or she has custody consistent with the Investment Policy of the  
20 Authority. The Auditor-Treasurer's primary objective in holding and investing such funds shall be: first, to  
21 safeguard the principal of such funds under his or her control; second, to meet the liquidity needs of the  
22 Authority; and third, to achieve a return on such funds under his or her control.

23 (b) Pursuant to Government Code Section 6505.5:

24 (1) Receive and acknowledge receipt for all funds of the Authority and place them in the  
25 treasury of the Treasurer to the credit of the Authority.

26 (2) Be responsible upon his or her official bond for the safekeeping and disbursements  
27 of all Authority funds so held by him or her.  
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1 (3) Pay any sums due from the Authority, as approved for payment by the Board of  
2 Directors or by any body or person to whom the Board of Directors has delegated approval authority, making  
3 such payments from Authority funds upon warrants drawn by the Auditor-Treasurer.

4 (4) Verify and report in writing to the Authority and to the Parties, as of the first day of  
5 each quarter of the fiscal year, the amount of money then held for the Authority, the amount of receipts since  
6 the last report, and the amount paid out since the last report.

7 (c) Pursuant to Government Code Section 6505.1, the President, the Vice-President, and such  
8 other persons as the Board of Directors may designate, shall have charge of, handle, and have access to the  
9 property of the Authority.

10 (d) The Authority shall secure and pay for a fidelity bond or bonds, in an amount or amounts and  
11 in the form specified by the Board of Directors, covering all officers and staff of the Authority, and all officers  
12 and staff who are authorized to have charge of, handle, and have access to property of the Authority.

13  
14 **ARTICLE 14**

15 **RESPONSIBILITIES OF PARTIES**

16 The Parties shall have the following responsibilities under this Agreement:

17 14.1 Appointments.

18 (a) The governing board or authority of each Party shall appoint representative(s) to the Board  
19 of Directors, pursuant to Article 7 hereof.

20 (b) Each Party shall appoint an officer or employee of the Party to be responsible and serve as  
21 a liaison between the Party and the Authority for all matters relating to the Authority.

22 14.2 Annual Contributions.

23 If the approved Budget assesses an annual contribution from the Parties, each Party shall contribute  
24 that annual assessment amount prior to and/or during each fiscal year as determined by the Board of  
25 Directors. County Parties, the City Party, Water Agency Parties, and any Tribal Parties shall pay an equal  
26 assessment. At the Board's discretion, DAC Parties may be assessed a reduced contribution.

27 Each Party, through its appointed Director on the Board, shall make a commitment at the date of the  
28 Budget's passing that it will pay its assessment. If a Party's budgeted annual contribution payment is not

1 made within sixty (60) days of the commencement of the fiscal year, the Director representing the Party in  
2 default may not vote until the contribution payment is made, and the defaulting Party will be deemed to have  
3 initiated a 180-day notice intent to terminate membership pursuant to Article 15.

4 All regular contributions toward the operating and/or administrative expenses of the Authority as  
5 determined by the Board of Directors shall be made in equal amounts from each of the Parties, except, at the  
6 Board's discretion, DAC Parties may be assessed a reduced share.

7 14.3 General Obligations

8 (a) Each Party shall cooperate with and assist the Authority and other contractors in all matters  
9 relating to this Agreement, and shall comply with all Bylaws, and other rules by the Board of Directors.

10 (b) Each Party shall have such other responsibilities as are provided elsewhere in this  
11 Agreement, and as are established by the Board of Directors in order to carry out the purposes of this  
12 Agreement.

13 14.4 Projects

14 The responsibility for financing, funding, or providing matching funds for the actual construction of  
15 any project shall be the responsibility of the individual public agency or agencies performing or authorizing  
16 such construction and shall not be an obligation of the Authority. However, the Authority, if it determines a  
17 project will have substantial general benefit throughout the jurisdictions of the County Parties, may take  
18 actions to secure financing, funding, or matching funds and to disburse such funds in furtherance of the  
19 project.

20  
21 **ARTICLE 15**

22 **WITHDRAWAL AND TERMINATION**

23 (a) Any Party may withdraw membership in the Authority and its obligations under this  
24 Agreement upon 180 days advance written notice to the other Parties and the Authority. The written intent to  
25 withdraw may be revoked no later than 120 days prior to the end of the 180 day termination period.

26 (b) Upon withdrawal of a Party from the Authority and this Agreement, no capital contributions of  
27 said Party shall be returned to the Party.

1 (c) Should the Board of Directors determine that need and cause exist to dissolve the Authority,  
2 any and all Board actions related to termination of this Agreement shall require unanimous consent of  
3 directors of all original Authority County Parties – namely FRESNO, TULARE, KINGS, MADERA and  
4 MERCED – that remain as members, and four-fifths (4/5) of directors of other member Parties.

5 (d) Upon termination of this Agreement, all assets of the Authority remaining after all existing  
6 obligations of the Authority have been disposed of, shall be distributed among the Parties in proportion to  
7 their cash and in-kind contributions and property contributed (at market value when contributed). The Board  
8 of Directors shall determine such distribution within six (6) months after disposal of the last obligation of the  
9 Authority.

10 (e) This Agreement and the Authority shall continue to exist until such time as the final  
11 disposition of all claims, distribution of all assets, and performance of all other functions necessary to  
12 conclude the affairs of the Authority.

13  
14 **ARTICLE 16**

15 **LIABILITY OF BOARD OF DIRECTORS, OFFICERS, COMMITTEE MEMBERS AND LEGAL ADVISORS**

16 The members of the Board of Directors, officers, committee members and legal advisors to any  
17 board or committees of the Authority shall use ordinary care and reasonable diligence in the exercise of their  
18 powers and in the performance of their duties pursuant to this Agreement. They shall not be liable for any  
19 mistake of judgment or any other action made, taken or omitted by them in good faith, nor for any action  
20 taken or omitted by any agent or employee selected with reasonable care, nor for loss incurred through  
21 investment of Authority funds, or failure to invest, performed in good faith.

22 No director, officer, committee member, or legal advisor to any board or committee shall be  
23 responsible for any action taken or omitted by any other director, officer, committee member, or legal advisor  
24 to any board or committee. No director, officer, committee member or legal advisor to any board or  
25 committee shall be required to give a bond or other security to guarantee the faithful performance of their  
26 duties pursuant to this Agreement.

27 The funds of the Authority shall be used to defend, indemnify and hold harmless the Authority, the,  
28 the Auditor-Treasurer of the Authority, any director, officer, committee member, contractor or retained expert

1 or other staff appointed by the Authority or loaned to the Authority by any Party, or any County Counsel  
2 acting as legal advisor to any board or committee for their actions taken within the scope of the authority of  
3 the Authority. Nothing herein shall limit the right of the Authority to purchase insurance to provide such  
4 coverage as is hereinabove set forth.

5 **ARTICLE 17**

6 **BYLAWS**

7 The Board of Directors may adopt Bylaws consistent with this Agreement which shall provide for the  
8 administration and management of the Authority. To be effective, adopted Bylaws and any changes or  
9 amendments thereto must be approved by a majority of the Board of Directors.

10 **ARTICLE 18**

11 **NOTICES**

12 The Authority shall address notices, billings and other communications to the member Parties as  
13 directed by the Parties. Each Party and the General At-Large Director shall provide the Authority with the  
14 address to which communications are to be sent. Each Party and the General At-Large Director shall  
15 address notices and other communications to the Authority at the office address of the Authority as set forth  
16 in the Bylaws.

17 The Authority shall promptly give each Party and the General At-Large Director a copy of any notice  
18 provided to the Authority from anyone, including but not limited to any notice from any other Party or the  
19 General At-Large Director, or of any notice provided by the Authority to anyone.

20 **ARTICLE 19**

21 **AMENDMENT**

22 Any terms or provisions of this Agreement may be modified from time to time by the written consent  
23 of the governing body of all the Parties without, in any way, affecting the remainder.

24 **ARTICLE 20**

25 **PROHIBITION AGAINST ASSIGNMENT**

1 No Party may assign any right, claim or interest, or delegate any obligation that it may have under  
2 this Agreement, and no creditor, assignee or third party beneficiary of either Party shall have any right, claim  
3 or title to any part, share, interest, fund, premium or asset of the Authority.

4  
5 **ARTICLE 21**  
6 **GOVERNING LAW**

7 The Parties agree that for the purposes of venue, performance under this Agreement is to be in  
8 Fresno County, California. The rights and obligations of the Parties and all interpretation and performance of  
9 this Agreement shall be governed in all respects by the laws of the State of California.

10  
11 **ARTICLE 22**  
12 **SEVERABILITY**

13 In the event any provisions of this Agreement are held by a court of competent jurisdiction to be  
14 invalid, void, or unenforceable, the Parties will use their best efforts to meet and confer to determine how to  
15 mutually amend such provisions with valid and enforceable provisions, and the remaining provisions of this  
16 Agreement will nevertheless continue in full force and effect without being impaired or invalidated in any way.

17  
18 **ARTICLE 23**  
19 **AGREEMENT COMPLETE**

20 This Agreement constitutes the entire agreement between the Parties with respect to the subject  
21 matter hereof and supersedes all previous agreements, negotiations, proposals, commitments, writings,  
22 advertisements, publications, and understandings of any nature whatsoever unless expressly included in this  
23 Agreement. This Agreement may be executed in one or more original counterparts, all of which together will  
24 constitute one and the same agreement.

25  
26 **ARTICLE 24**  
27 **FILING WITH STATE AND COUNTY**  
28

1 The President of the Board of Directors of the Authority shall cause the following to be done upon  
2 signature of this document or any amendment hereto by all parties:

3 (a) file the required form of notice of this Agreement, and any amendment hereto, with the Office  
4 of California Secretary of State, within thirty (30) days of its effective date, as required by Government Code  
5 Section 6503.5:

6 (b) file a full copy of this Agreement, and any amendment hereto, with the State Controller and  
7 the Local Agency Formation Commissions (LAFCOs) of each applicable county within thirty (30) days of its  
8 effective date, as required by Government Code Section 6503.6;

9 (c) file the required form of notice with the Secretary of State and with the Tulare County Clerk  
10 within seventy (70) days of its effective date, as required by Government Code Section 53051;

11 (d) File notice of any changes to the information filed under (c) within ten (10) days of the  
12 change.

13  
14  
15 IN WITNESS WHEREOF, the COUNTY OF FRESNO, the COUNTY OF KINGS, the COUNTY OF  
16 MADERA, the COUNTY OF MERCED, the COUNTY OF TULARE, the CITY OF FRESNO, the FRIANT  
17 WATER AUTHORITY, the SAN LUIS & DELTA-MENDOTA WATER AUTHORITY, the SAN JOAQUIN  
18 RIVER EXCHANGE CONTRACTORS WATER AUTHORITY, the CITY OF AVENAL, and the CITY OF  
19 ORANGE COVE have executed this Amended and Restated Joint Exercise of Powers Agreement Creating  
20 the SAN JOAQUIN VALLEY WATER INFRASTRUCTURE AUTHORITY as of the day and year first  
21 hereinabove written.

22  
23 [SIGNATURES FOLLOW]

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26  
27 **COUNTY OF FRESNO**

**COUNTY OF KINGS**

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\_\_\_\_\_  
Nathan Magsig  
Chairman, Board of Supervisors

Bernice Seidel, Clerk of the Board

By \_\_\_\_\_

**COUNTY OF MADERA**

\_\_\_\_\_  
Brett Frazier  
Chairman, Board of Supervisors

\_\_\_\_\_, Clerk of the Board

By \_\_\_\_\_

**COUNTY OF TULARE**

\_\_\_\_\_  
Kuyler Crocker  
Chairman, Board of Supervisors

Jason T. Britt, Clerk of the Board/  
County Administrative Officer

By \_\_\_\_\_

**FRIANT WATER AUTHORITY**

\_\_\_\_\_  
Chris Tantau  
Chairman, Board of Directors

By \_\_\_\_\_

[SIGNATURES CONTINUE ON NEXT PAGE]  
**SAN JOAQUIN RIVER EXCHANGE  
CONTRACTORS WATER AUTHORITY**

\_\_\_\_\_  
Joe Neves  
Chairman, Board of Supervisors

Catherine Venturella, Clerk of the Board

By \_\_\_\_\_

**COUNTY OF MERCED**

\_\_\_\_\_  
Lloyd Pareira  
Chairman, Board of Supervisors

\_\_\_\_\_, Clerk of the Board

By \_\_\_\_\_

**CITY OF FRESNO**

\_\_\_\_\_  
Lee Brand  
Mayor

By \_\_\_\_\_

**SAN LUIS & DELTA-MENDOTA WATER  
AUTHORITY**

\_\_\_\_\_  
Federico Barajas  
Executive Director

By \_\_\_\_\_

**CITY OF AVENAL**

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\_\_\_\_\_  
James O'Banion  
Chairman, Board of Directors

\_\_\_\_\_  
Melissa Whitten  
City Manager

By \_\_\_\_\_

By \_\_\_\_\_

**CITY OF ORANGE COVE**

\_\_\_\_\_  
Victor Lopez  
Mayor

By \_\_\_\_\_

APPROVED AS TO LEGAL FORM

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Daniel C. Cederborg,  
County Counsel, County of Fresno

\_\_\_\_\_  
Deanne Peterson,  
County Counsel, County of Tulare

\_\_\_\_\_  
Regina A. Garza,  
County Counsel, County of Madera

\_\_\_\_\_  
James N. Fincher  
County Counsel, County of Merced

\_\_\_\_\_  
David Prentice,  
Interim County Counsel, County of Kings

\_\_\_\_\_  
City of Fresno

\_\_\_\_\_  
Friant Water Authority

\_\_\_\_\_  
Rebecca Akroyd, General Counsel,  
San Luis & Delta-Mendota Water  
Authority

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San Joaquin River Exchange  
Contractors Water Authority

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City of Avenal



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City of Orange Cove