

DRAFT 06/17/16 1130

**JOINT EXERCISE OF POWERS AGREEMENT
CREATING
THE NORTH TULARE COUNTY REGIONAL WATER ALLIANCE**

EFFECTIVE DATE: _____, 2016

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21
22
23
24
25
26
27
28

TABLE OF CONTENTS

1

2 ARTICLE 1. DEFINITIONS

3 ARTICLE 2. PURPOSES OF THE AGREEMENT

4 ARTICLE 3. TERM

5 ARTICLE 4. CREATION OF THE ALLIANCE

6 ARTICLE 5. POWERS OF THE ALLIANCE

7 ARTICLE 6. BOARD OF DIRECTORS

8 ARTICLE 7. POWERS OF THE BOARD OF DIRECTORS

9 ARTICLE 8. MEETINGS OF THE BOARD OF DIRECTORS

10 ARTICLE 9. OFFICERS

11 ARTICLE 10. ADMINISTRATION

12 ARTICLE 11. DEVELOPMENT, FUNDING AND SUBMISSION OF SOLICITATIONS OR **GRANT**

13 **FUNDING** APPLICATIONS

14 ARTICLE 12. ACCOUNTS & RECORDS

15 ARTICLE 13. RESPONSIBILITIES FOR FUNDS AND PROPERTY

16 ARTICLE 14. RESPONSIBILITIES OF THE PARTIES

17 ARTICLE 15. ALLOCATION OF COSTS

18 ARTICLE 16. WITHDRAWAL AND TERMINATION

19 ARTICLE 17. LIABILITY OF BOARD OF DIRECTORS, OFFICERS, COMMITTEE

20 MEMBERS & LEGAL ADVISORS

21 ARTICLE 18. BYLAWS

22 ARTICLE 19. NOTICES

23 ARTICLE 20. AMENDMENT

24 ARTICLE 21. ADMISSION OF NEW PARTIES

25 ARTICLE 22. PROHIBITION AGAINST ASSIGNMENT

26 ARTICLE 23. GOVERNING LAW

27 ARTICLE 24. SEVERABILITY

28 ARTICLE 25. AGREEMENT COMPLETE

ARTICLE 26. FILING WITH SECRETARY OF STATE

ARTICLE 27. DISPUTE RESOLUTION

1 **JOINT EXERCISE OF POWERS AGREEMENT**

2 **CREATING THE NORTH TULARE COUNTY REGIONAL WATER ALLIANCE (NCRWA)**

3 THIS Agreement ("Agreement") is made and entered into effect ___ day of _____, 2016, by and among
4 the Cutler Public Utility District, Orosi Public Utility District, East Orosi Community Services District, Sultana
5 Community Service District, and County of Tulare. Each entity listed above is a political subdivision of the
6 State of California, a public agency, and a "Party" to this Agreement, and all the entities listed above together
7 are the "Parties" to this Agreement.

8 **RECITALS**

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

12 **WHEREAS**, the Parties each are public agencies which have the common power to make contracts
13 necessary to exercise their respective powers; and

14 **WHEREAS**, the Parties each are public agencies which have the common power to provide
15 domestic water; and

16 **WHEREAS**, the Parties' goal is to provide affordable drinking water over the long-term for the
17 parties; and

18 **WHEREAS**, the Parties have a joint and mutual interest in the successful planning, design,
19 construction, and operation of a ~~large-scale surface water treatment facility~~ shared regional drinking water
20 solution; and

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

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

25
26 **ARTICLE I**
27 **DEFINITIONS**
28

Commented [MCE1]: Other options include "deliver safe and quality drinking water" and use of the word "sustainable." We discussed putting this language in the "Purposes" article.

1 "Act" or "The Act" shall mean the Joint Exercise of Powers Act, California Government Code Title
2 I, Division 7, Chapter 5, commencing with Section 6500.

3 "Alliance" shall mean the North Tulare County Regional Water Alliance created by this Agreement.

4 "Board of Directors" shall mean the governing body of the Alliance.

5 "Fiscal year" shall mean July 1 through June 30 or that period of twelve months which is
6 established by the Board of Directors as the fiscal year of the Alliance.

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

8 ~~"Initial Project" means the project detailed in the study titled, Northern Tulare County Regional~~
9 ~~Surface Water Treatment Plan (SWTP) with the objective to provide a treated surface water supply for the~~
10 ~~Parties.~~

Commented [MCE2]: Was decided to be too limiting

11 "NCRWA" shall mean North Tulare County Regional Water Alliance.

12 ~~"Party-representative Director" shall mean a member of the Board of Directors who represents a~~
13 ~~Party to this Agreement.~~

14 ~~"Project Agreement" means an Agreement between the Parties and the Alliance for the purpose of~~
15 ~~implementing the Project.~~

16 ~~"Qualifying Region" shall mean that region within which an entity must provide domestic water in~~
17 ~~order to qualify for membership in the Alliance, as established in the Alliance Bylaws.~~

18 ~~"Supermajority" shall mean a majority of the Board plus one (1).~~

19 "Water Project" shall mean any construction, modification, operation, or supply agreement
20 considered or undertaken to effect the increased or more efficient or cost-effective provision of water to the
21 jurisdictions of the member Parties.

Commented [MCE3]: Needs work

22 ARTICLE 2

23 PURPOSES OF THE AGREEMENT ~~(needs work)~~

24 This Agreement is entered into by the Parties so that they may jointly pursue regional drinking water
25 supply and infrastructure project(s) to provide a long-term, secure, reliable, safe water supply for the benefit
26 of all the Parties in an efficient, reliable, sustainable, cost-effective, and environmentally sound manner, and
27 develop and submit solicitations or applications for ~~grants or other~~ funding for those projects. The Alliance
28

1 may also exercise such powers as are granted to it by the member Parties to administer or disburse the
2 funds obtained for any Water Project.

3
4 **ARTICLE 3**

5 **TERM**

6 This Agreement shall become operative upon signature by all parties and shall continue in full force
7 and effect until terminated as provided herein.

8
9 **ARTICLE 4**

10 **CREATION OF THE ALLIANCE**

11 Pursuant to the Act, there is hereby created a public entity separate and apart from the Parties, to be
12 known as the North Tulare County Regional Water Alliance ("NCRWA" or "the Alliance"), with such powers
13 as are hereinafter set forth. The debts, liabilities, and obligations of the Alliance shall be the debts, liabilities,
14 or obligations of the Alliance alone and shall not constitute debts, liabilities, or obligations of any Party to this
15 Agreement notwithstanding the payment of respective costs and expenses as referenced in the Recitals,
16 Article 15, Article 16, and throughout the Agreement. The Alliance, its Board, officers, membership, and staff
17 shall be governed by this Agreement, the Bylaws, and other documents duly adopted by the Alliance.

18
19 **ARTICLE 5**

20 **POWERS OF THE ALLIANCE**

21 The Alliance shall have all powers set forth in the Act, and is hereby authorized to do all acts
22 necessary for the exercise of said powers in furtherance of its purposes. Such powers include, but are not
23 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, agencies, or special
26 districts;

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

1 (c) To acquire, hold, 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) The Alliance may not appropriate, expend, or encumber funds in excess of any amounts
9 actually approved and contributed by the Parties or actually received from any other source;
10 Pursuant to Government Code section 6509, the aforementioned powers shall be subject to those
11 restrictions as apply to any of the Parties.

12
13 **ARTICLE 6**
14 **BOARD OF DIRECTORS**

15 (a) Composition of the Board of Directors

16 The Alliance shall be governed by the Board of Directors, which shall consist of nine (9) members
17 and shall be composed as follows:

18 Two (2) member(s) from Oroshi Public Utilities District

19 Two (2) member(s) from Cutler Public Utilities District

20 ~~Two (2) member(s)~~ from the County of Tulare

21 One (1) member from East Oroshi Community Services District

22 One (1) member from Sultana Community Services District

23 ~~One (1) member from the communities of Yettam and Seville ("Community Member")~~

24 ~~One (1) member At-Large~~

25 Within 30 days after the execution of this Agreement by the Parties, each Party shall
26 designate and appoint the representative(s) to serve as Director(s) on the Board. Each Party also
27 shall appoint an alternate Director. For each Party, each representative Director shall be an existing
28 board member of the legal entity party to this agreement.

Commented [MCE4]: County asking for 2, pretty well rejected

Commented [MCE5]: How chosen? Staggered terms?

Commented [MCE6]: (Cut one of these if County gets 2 seats)

1 The Community Member and At-Large ~~member~~Member shall be appointed by the Board via
2 process established in its Bylaws.

3 Members of the Board shall serve until removed or replaced by the governing board of the Party they
4 represent. If, for any reason, a member resigns, leaves office, or cannot fulfill the duties of that position, the
5 alternate member appointed by the respective Party shall become the regular member for the remainder of
6 the applicable term.

7 If, for any reason, the At-Large Member resigns or cannot fulfill the duties of that position, the
8 remaining members of the Board of Directors shall appoint a new At-Large Member to complete the
9 remainder of the At-Large Member's term.

10 ~~(d)~~

11 (b) Voting Protocols

12 A majority of the membership of the Board of Directors shall constitute a quorum for the transaction
13 of business. Approval of proposed actions requires a simple majority vote of the whole Board of Directors,
14 except as provided herein. The following actions shall require a supermajority: (i) initiation of litigation in the
15 name of the Agency, (ii) issuance of bonds or other form of indebtedness obligating the Agency for an
16 amount in excess of \$100,000, (iii) adoption or amendment of the Agency's Bylaws; (iv) amendments to the
17 Agency's Qualifying Region; (v) admission of any new Party to the Agency; (vi) expulsion of any Party.

18 (c) Compensation

19 Compensation, if any, for Board and/or officer service may be established by the Board in its bylaws
20 or by resolution. Nothing in this section prohibits the payment of compensation by a Party's governing board
21 to its representatives.

Commented [MCE7]: Not sure how we want to word this

Commented [MCE8]: Not really addressed in this document. Needed?

Commented [MCE9]: Taken from 5/17 draft

1 **ARTICLE 7**

2 **POWERS OF THE BOARD OF DIRECTORS**

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

4 (a) The Board of Directors shall exercise all powers and conduct all business of the Alliance,
5 either directly or by delegation to its officers and staff.

6 (b) The Board of Directors shall elect the officers of the Alliance and shall appoint or hire
7 necessary staff in accordance with Articles 9 and 10 hereof.

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

10 (d) The Board of Directors shall develop, or cause to be developed, and shall review, modify as
11 necessary, any solicitation or **grantfunding** application for a Water Project and administrative services
12 necessary to carry out such solicitation or **grantfunding** application or the receipt, administration and
13 disbursement of any **grant**-funds received.

14 (e) The Board of Directors shall provide for necessary services to the Alliance, by contract or
15 otherwise, which may include, but shall not be limited to, accounting, auditing, and legal services.

16 (f) The Board of Directors shall provide general supervision and policy direction to the staff of
17 the Alliance.

18 (g) The Board of Directors shall have such other powers and duties as are reasonably
19 necessary to carry out the purposes of the Alliance, including, but not limited to, establishing ad hoc or
20 standing committees.

21 **ARTICLE 8**

22 **MEETINGS OF THE BOARD OF DIRECTORS**

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

25 (b) The staff of the Alliance shall provide for the keeping of minutes of regular and special
26 meetings of the Board of Directors, and shall provide a copy of the minutes to each member of the Board of
27 Directors at the next scheduled meeting.
28

1 (c) All meetings of the Board of Directors shall be called, noticed, held, and conducted in
2 accordance with the provisions of Government Code Section 54950, et seq (the "Ralph M. Brown Act").

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

6
7 **ARTICLE 9**

8 **OFFICERS**

9 The Board of Directors shall elect from its membership a Chair and Vice Chair of the Board of
10 Directors, to serve for a term of one (1) year. The Chair, or in his or her absence, the Vice Chair, shall
11 preside at and conduct all meetings of the Board of Directors.

12
13 **ARTICLE 10**

14 **ADMINISTRATION**

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

17 (a) **Auditor-Treasurer.** The duties of the Auditor-Treasurer are set forth in of this Agreement.
18 Pursuant to Government Code Section 6505.5, the Auditor-Treasurer shall be the Auditor -Controller of
19 Tulare County. Pursuant to Government Code Section 6505, the charges to the Alliance for the services of
20 the Auditor-Treasurer shall be determined by the Tulare County Board of Supervisors, subject to approval by
21 the Alliance.

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

24
25 **ARTICLE 11**

26 **DEVELOPMENT, FUNDING, AND IMPLEMENTATION OF SOLICITATIONS OR GRANT FUNDING**
27 **APPLICATIONS**

1 (a) **Solicitations or Grant-Funding Applications**. The Alliance shall develop, fund, and cause
2 to be submitted solicitations or grantfunding applications to the appropriate state or federal agency or other
3 funding sources for the funding of Water Projects.

4
5 **ARTICLE 12**

6 **ACCOUNTS AND RECORDS**

7 (a) **Annual Budget**. Within 90 days after the first meeting of the Board, and thereafter prior to
8 the commencement of each fiscal year, the Board shall adopt an operating budget.

9 (b) **Funds and Accounts**. The Auditor-Treasurer of the Alliance shall establish and maintain
10 such funds and accounts as may be required by good-generally accepted accounting practices and by the
11 Board of Directors. Separate accounts shall be established and maintained for each project under
12 development or adopted and implemented by the Alliance. Books and records of the Alliance in the hands of
13 the Auditor-Treasurer shall be open to inspection at all reasonable times by authorized representatives of the
14 Parties.

15 The Alliance shall adhere to the standard of strict accountability for funds set forth in
16 Government Code Section 6505.

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

20 (d) **Annual Audit**. Pursuant to Government Code Section 6505, the Alliance shall either make
21 or contract with a certified public accountant to make an annual fiscal year audit of all accounts and records
22 of the Alliance, conforming in all respects with the requirements of that section. A report of the audit shall be
23 filed as a public record with the Parties also with the county auditor of the county where the home office of
24 the Alliance is located and shall be sent to any public agency or person in California that submits a written
25 request to the Alliance. The report shall be filed within six months of the end of the fiscal year or years under
26 examination. Costs of the audit shall be considered a general expense of the Alliance.

1 **ARTICLE 13**

2 **RESPONSIBILITIES FOR FUNDS AND PROPERTY**

3 (a) The Auditor-Treasurer shall have the custody of and disburse the Alliance's funds. He or she
4 may delegate disbursing authority to such persons as may be authorized by the Board of Directors to
5 perform that function, subject to the requirements of (b) below.

6 (b) Pursuant to Government Code Section 6505.5, the Auditor-Treasurer shall:

7 (1) Receive and acknowledge receipt of all funds of the Alliance and place them in the
8 treasury to the credit of the Alliance;

9 (2) Be responsible upon his or her official bond for the safekeeping and disbursements
10 of all Alliance funds so held by him or her;

11 (3) Pay any sums due from the Alliance, as approved for payment by the Board of
12 Directors or by any body or person to whom the Board of Directors has delegated approval authority, making
13 such payments from Alliance funds upon warrants drawn by the Auditor;

14 (4) Verify and report in writing to the Alliance and to the Parties, as of the first day of
15 each quarter of the fiscal year, the amount of money then held for the Alliance, the amount of receipts since
16 the last report, and the amount paid out since the last report;

17 (c) Pursuant to Government Code Section 6505.1, the Chair, the Vice Chair, and such other
18 persons as the Board of Directors may designate, shall have charge of, handle, and have access to the
19 property of the Alliance;

20 (d) The Alliance shall secure and pay for a fidelity bond or bonds, in an amount or amounts and
21 in the form specified by the Board of Directors, covering all officers and staff of the Alliance, and all officers
22 and staff who are authorized to have charge of, handle, and have access to property of the Alliance.
23

24 **ARTICLE 14**

25 **RESPONSIBILITIES OF PARTIES**

26 The Parties shall have the following responsibilities under this Agreement:
27
28

1 (a) The governing board or authority of each Party shall appoint representative(s) to the Board
2 of Directors, pursuant to Article 6 hereof.

3 ~~(b) Power of Party-representative Directors to bind their Party.~~

4 ~~Each Party to this Alliance invests in their representative Director(s) the ability to bind the~~
5 ~~Party...???, except as provided herein |~~

6 ~~(bc)~~ Each Party shall appoint an officer or employee of the Party to be responsible and serve as
7 a liaison between the Party and the Alliance for all matters relating to the Alliance.

8 ~~(cd)~~ Each Party shall provide the Alliance such other information or assistance as may be
9 necessary for the Alliance to develop and implement Water Projects under this Agreement.

10 ~~(de)~~ Each Party shall cooperate with and assist the Alliance and other contractors in all matters
11 relating to this Agreement, and shall comply with all Bylaws, and other rules by the Board of Directors.

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

15
16 **ARTICLE 15**

17 **ALLOCATION OF COSTS**

18 (a) The costs incurred by the Agency Alliance in carrying out its functions shall be allocated between
19 the Parties. Each of the Parties agrees that it will be responsible for paying its respective costs to the
20 Alliance in accordance with the budget and payment schedule adopted by the Board of Directors and
21 consistent with this Article, the Alliance Bylaws, policies, any Project Agreement, and any bonds or
22 certificates of financing issued or financing agreements entered into by the Agency.

23 (b) Allocation of costs for specific projects-Water Projects shall be determined on a project-by-project
24 basis. For a Party to be allocated costs for any Water Project, that Party must receive approval of the
25 governing board or authority of that Party and declare intent to participate in the project through the signing
26 of a Project Agreement. Non-participation in a Water Project does not affect Alliance membership.

27 ~~(bc)~~ Allocation of costs may be set by a majority of the Board if:
28

Commented [MCE10]: This needs to be discussed and redone as necessary. Options are for director to be able to bind the their respective home Board, or inserting a requirement that the decision go back to the home Board.

Commented [MCE11]: But see, as alternative, the opt-in clause of Article 15 (b)

Commented [MCE12]: Fix letters as needed

Commented [MCE13]: Do we need the non-payment/ default stuff from the workgroup draft?

Commented [MCE14]: Define?

Commented [MCE15]: This was not specifically in the more recent working group draft, but there was something similar in previous versions, and based on several comments at the June 16th meeting, it sounded like the group believed that there was an opt-out clause of some sort. So, I added this.

1 (1) allocation of costs is in proportion to the Party's number of seats on the Board; or
2 (2) allocation of costs is in proportion to the number of residential domestic water customers
3 service connections served by a Party. For the purposes of this section, the number of residential domestic
4 water customers served by the County of Tulare shall mean those customers in the communities of Seville,
5 Yettem, and Monson.

6 (ed) Allocation of costs must be set by unanimous Board approval if the allocation of costs will not be
7 proportionate as described in section (b) of this Article.
8

9 ARTICLE 16

10 WITHDRAWAL AND TERMINATION (this section is a work in progress)

11
12 (a) Any Party may terminate its membership in the Alliance and its obligations under this
13 Agreement upon 180 days advance written notice to the other Parties and the Alliance. The written intent to
14 terminate may be withdrawn no later than 120 days prior to the end of the 180 day termination period.

15 (b) If any Party ceases to provide domestic water within the region currently identified in Article
16 21 as the qualifying region for new party admission, that Party shall become disqualified from Alliance
17 membership, and that Party's membership will be terminated upon thirty (30) days from the qualifying event,
18 unless special dispensation is sought by the disqualified Party and granted by a supermajority of the
19 remaining Board members.

20 (b) Upon withdrawal or disqualification of a Party from the Alliance and this Agreement, any
21 capital contributions of said Party shall be returned to the Party less that Party's share of ongoing obligations
22 of the Alliance incurred during that Party's membership in the Alliance. Contributions by a Party for operating
23 expenses and costs of preparation of any solicitation or application for grants funding authorized or incurred
24 prior to the effective date of withdrawal shall not be returned upon withdrawal.

25 (c) Upon termination of this Agreement, all assets of the Alliance remaining after all existing
26 obligations of the Alliance have been disposed of shall be distributed among the Parties in proportion to their
27 cash and in-kind contributions and property contributed (at market value when contributed). The Board of
28

Commented [MCE16]: "withdraw"?

Commented [MCE17]: Working group draft 5/17/16 has 30 days' notice only. Thoughts?

Commented [MCE18]: This was added at request of working group as an auto-exit of County should they be replaced as water providers by a Yettem-Seville CSD or the joining of Monson and Sultana.

Commented [MCE19]: I just picked a number

Commented [MCE20]: Will this work?

Commented [MCE21]: Wording?

1 Directors shall determine such distribution within six (6) months after disposal of the last obligation of the
2 Alliance.

3 (d) This Agreement and the Alliance shall continue to exist until such time as the final
4 disposition of all claims, distribution of all assets, and performance of all other functions necessary to
5 conclude the affairs of the Alliance.

6
7 **ARTICLE 17**

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

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

15 No director, officer, committee member, or legal advisor to any board or committee shall be
16 responsible for any action taken or omitted by any other director, officer, committee member, or legal advisor
17 to any board or committee. No director, officer, committee member, or legal advisor to any board or
18 committee shall be required to give a bond or other security to guarantee the faithful performance of their
19 duties pursuant to this Agreement.

20 The funds of the Alliance shall be used to defend, indemnify, and hold harmless the Alliance, the
21 Auditor-Treasurer of the Alliance, any director, officer, committee member, contractor or retained expert or
22 other staff appointed by the Alliance or loaned to the Alliance by any Party, or any counsel acting as legal
23 advisor to any board or committee for their actions taken within the scope of the authority of the Alliance.
24 Nothing herein shall limit the right of the Alliance to purchase insurance to provide such coverage as is
25 hereinabove set forth.

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ARTICLE 18

BYLAWS

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

ARTICLE 19

NOTICES

The Alliance shall address notices, billings, and other communications to the member Parties as directed by the Parties. Each Party shall provide the Alliance with the address to which communications are to be sent. Each Party shall address notices and other communications to the Alliance at the office address of the Alliance as set forth in the Bylaws.

The Alliance shall promptly give each Party a copy of any notice provided to the Alliance from anyone, including but not limited to any notice from any other Party, or of any notice provided by the Alliance to anyone.

ARTICLE 20

AMENDMENT

Any matter in this Agreement may be modified from time to time by the written consent of the governing bodies of all the Parties without, in any way, affecting the remainder.

ARTICLE 21

ADMISSION OF NEW PARTIES

Any city, ~~county,~~ or special district with the power to provide domestic water which ~~is significantly involved in regional water problems~~ serves customers within the Qualifying Region may become a party to the NTCRWA, upon such terms and conditions as established by the Board, by adoption of this agreement

Commented [MCE22]: At the June 16th meeting, it was established that the boundaries of the Alta Irrigation District made the most sense for now. However, in reviewing the 5/17 working draft, it appears the parties anticipating being able to change the qualifying region with a supermajority vote (see Article 6(b)), so I wasn't sure if they want it set in the JPA itself, or not.

Commented [MCE23]: Majority vote?

1 and the execution of a written addendum thereto agreeing to the terms of this Agreement and agreeing to
2 any additional terms and conditions that may be established by the Board.

3
4 **ARTICLE 22**

5 **PROHIBITION AGAINST ASSIGNMENT**

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

9
10 **ARTICLE 23**

11 **GOVERNING LAW**

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

15
16 **ARTICLE 24**

17 **SEVERABILITY**

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

22
23 **ARTICLE 25**

24 **AGREEMENT COMPLETE**

25 This Agreement constitutes the entire agreement between the Parties with respect to the subject
26 matter hereof and supersedes all previous agreement negotiations, proposals, commitments, writings,
27 advertisements, publications, and understandings of any nature whatsoever unless expressly included in this
28

1 Agreement. This Agreement may be executed in one or more original counterparts, all of which together will
2 constitute one and the same agreement.

3
4 **ARTICLE 26**

5 **FILING WITH SECRETARY OF STATE**

6 The Chair of the Board of Directors of the Alliance shall file a notice of this Agreement with the Office
7 of California Secretary of State within 30 days of its effective date, as required by Government Code Section
8 6503.5, and within 70 days of its effective date as required by Government Code Section 53051.

9
10 **ARTICLE 27**

11 **DISPUTE RESOLUTION**

12
13 If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot
14 be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding
15 mediation before resorting to litigation or some other dispute resolution procedure, unless the parties
16 mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of
17 disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All
18 costs and fees required by the mediator shall be split equally by the parties; otherwise each party shall bear
19 its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue
20 litigation to resolve the dispute. Any remedies provided in this Agreement are cumulative and not exclusive,
21 and are in addition to any other remedies that may be provided by law or equity. The exercise by any Party
22 of any remedy under this Agreement shall be without prejudice to the enforcement of any other remedy.

Commented [MCE24]: Taken from 5/27 working group draft

23
24 IN WITNESS WHEREOF, Cutler Public Utility District, Orsi Public Utility District, East Orsi
25 Community Services District, Sultana Community Service District, and the County of Tulare have executed
26 this Joint Exercise of Powers Agreement Creating the North Tulare County Regional Water Alliance as of the
27 day and year first hereinabove written.

28 **COUNTY OF TULARE**

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Michael Ennis,
Chairman, Board of Supervisors

Attest:

Clerk of the Board/County Administrative Officer

By _____

CUTLER PUBLIC UTILITIES DISTRICT

???,
Chairman

Attest:

???,
By _____

EAST OROSI COMMUNITY SERVICES DISTRICT

???,
Chairman

Attest:

???,
By _____

OROSI PUBLIC UTILITIES DISTRICT

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Chairman

Attest:

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By _____

SULTANA COMMUNITY SERVICES DISTRICT

???,
Chairman

Attest:

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By _____

DRAFT

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APPROVED AS TO LEGAL FORM

Kathleen Bales-Lange,
County Counsel, County of Tulare

Patrick Sullivan,
Counsel, Cutler Public Utilities District

Matthew Pierce,
Counsel, East Oroshi Community Services District

Moses Diaz,
Counsel, Oroshi Public Utilities District

Matthew Pierce,
Counsel, Sultana Community Services District