

# Exhibit A

## Tuolumne Stanislaus Integrated Regional Water Management Joint Powers Agreement

THIS AGREEMENT is made and effective as of April 16, 2014, pursuant to the Joint Exercise of Powers Act (Government Code Sections 6500, *et seq.*) by and among the public agencies listed on the attached Exhibit A in order to form the Tuolumne- Stanislaus Integrated Regional Water Management Authority. This Agreement is made with reference to the following facts.

Each of the parties to this Agreement share a common interest in maximizing the beneficial use of water within the Tuolumne-Stanislaus Region and find that it would be to their mutual advantage and the public's benefit to coordinate the implementation and funding of the Tuolumne-Stanislaus Integrated Regional Water Management Plan, T-S IRWMP.

The parties wish to facilitate the implementation of the T-S IRWMP by forming a joint powers authority to pursue appropriate water resource planning opportunities in accordance with the applicable provisions of California law.

THEREFORE, in consideration of the above premises and of the mutual promises and agreements herein contained, the parties to this Agreement do hereby jointly exercise their powers to establish the Tuolumne-Stanislaus Integrated Regional Water Management Joint Powers Authority and agree as follows:

### **Section 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) "Authority" shall mean the Tuolumne-Stanislaus Integrated Regional Water Management Authority, being the separate entity created by this Agreement.
- b) "Act" shall mean the Integrated Regional Water Management Planning Act of 2002, codified in Part 2.2 (commencing with Section 10530) of Division 6 of the California Water Code, as it may be amended, revised or superseded.
- c) "Board of Directors" or "Board" shall mean the governing body of the Authority as established by Section 3.01 of this Agreement.
- d) "Fiscal Year" shall mean that period of twelve months established as the Fiscal Year of the Authority pursuant to subsection "Fiscal Year" of this Agreement.
- e) "Interested Party" shall be a party designated by the Board to represent an organization within the Tuolumne-Stanislaus Region after receiving a written request from that organization to be an Interested Party.
- f) "IRWMP" shall mean the Integrated Regional Water Management Plan for the Tuolumne-Stanislaus Region adopted pursuant to the Act, as it may be modified or amended.
- g) A "Major Decision" shall mean only those decisions that are defined as such in this Agreement. A Major Decision shall require the affirmative vote of two-thirds of the members of the Board of Directors present and voting at a meeting at which a quorum is present.

- h) "Minor Decision" shall mean any decision by the Board of Directors that is not a Major Decision. A Minor Decision shall require the affirmative vote of a majority of the members of the Board of Directors present and voting at a meeting at which a quorum is present.
- i) "Members" shall mean those the parties identified on the attached Exhibit A, and any parties that shall hereafter become Members in accordance with the terms and provisions of this Agreement.
- j) "Member of the Public" shall be any member of the public, or public or private entity, that has expressed interest in the Authority's activities, but is not a member of the Authority or the Watershed Advisory Committee.
- k) "Participation Percentage" shall mean the percentages described in subsection "Participation Percentages" and modifications to said subsection.
- l) "Special Activities" shall mean activities that are consistent with the purpose of this Agreement, but which are undertaken by fewer than all the parties in the name of the Authority pursuant to subsection "Special Activities".
- m) "Tuolumne-Stanislaus Region" shall mean the area depicted on the attached Exhibit \_\_\_\_.
- n) "Watershed Advisory Committee" or "WAC" shall mean the advisory body of the Authority created by Section 3.02 of this Agreement, consisting of representatives from the Members and the Interested Parties.

## **Section 2. Creation of Authority**

### **2.1 Creation**

The parties, pursuant to their joint exercise of powers, hereby create a public entity to be known as the "Tuolumne-Stanislaus Integrated Regional Water Management Authority."

### **2.2 Term**

This Agreement shall remain in effect until terminated by mutual agreement of all the parties hereto. Notwithstanding any other provision herein, this Agreement shall remain in effect and be binding upon the parties hereto and upon all subsequent parties joined herein for such a period as the Authority desires to engage in any activities under this Agreement. The foregoing provision shall not apply, however, to any party that withdraws or is terminated from its participation in the Authority in accordance with this Agreement.

### **2.3 Purpose**

The purpose of this Agreement is to provide for the joint exercise, through the Authority, of powers common to each of the parties in order to:

- I. engage in integrated regional water management planning and related activities under the Act in the Tuolumne-Stanislaus Region,
- II. coordinate, manage, maintain, modify, amend and implement the IRWMP under the Act, including without limitation assisting the Members in the development of water management projects and/or grant applications for projects included in or consistent with the IRWMP,
- III. participate through the Authority in water management projects included in or consistent with the IRWMP, and
- IV. engage in such other activities related thereto as are incidental, necessary and convenient to the mutual benefit and interest of the Members. Activities unrelated to integrated regional water management planning under the Act in the Tuolumne Stanislaus Region and/or the

IRWMP shall not be undertaken by the Authority unless the Agreement is amended to accommodate additional specified activities.

## **2.4 Powers**

The Authority shall have the power to take any action to carry out the purposes of this Agreement. Subject to the applicable voting requirements described in this Agreement, the Authority is authorized, in its own name, to do all acts necessary for the exercise of said powers, including, but not limited to, any and all of the following:

- to coordinate all activities necessary to maintain, modify, amend and implement the IRWMP in accordance with the Act;
- to screen and select projects for grant applications;
- to prepare and submit grant applications on behalf of the Members;
- to assist Members in the development of water management projects;
- to participate in water management projects;
- to acquire, allocate, and manage grant funding pursuant to grantor's requirements;
- to create and appoint committees and sub-committees;
- to undertake, on behalf of the Members, all actions required by the California Department of Water Resources and the State Water Resources Control Board related to the IRWMP;
- to make and enter into contracts and agreements;
- to sue and be sued in its own name;
- to engage or employ agents, attorneys, consultants and employees;
- to acquire, hold, or dispose of any property by gift, grant, exchange, devise, or purchase;
- to incur debts, liabilities and obligations as approved by the Board of Directors in accordance with this Agreement;
- to receive contributions and donations of property, funds, services and other forms of assistance from persons, firms, corporations, and other governmental entities;
- exercise all powers necessary and proper to carry out the purposes, terms and provisions of this Agreement or otherwise authorized by law;
- to adopt rules and regulations, or bylaws, governing the internal process and procedures of the Authority;
- to fix and collect charges for any service furnished by the Authority.

Members of the Authority shall at all times retain control and authority, independent of the Authority, over their own internal matters, including water supplies, facilities, and water supply projects.

## **2.5 Adoption of IRWMP**

The Members agree that the IRWMP shall be coordinated and managed by the Authority, and that all modifications or amendments of the IRWMP shall be adopted only by the Authority's Board of Directors and in accordance with this Agreement. Modifications and amendments of the IRWMP shall be a Major Decision.

## **Section 3. Internal Organization**

### **3.1 Governing Body**

The Authority shall be governed by a Board of Directors which is hereby established and which shall be composed of one representative of each of the Members, and who shall be selected and designated in writing by the governing body of the respective party from among the elected members of that party's

governing body, where applicable. Each party, in addition to appointing its member to the Board, shall appoint at least one alternate to the Board who shall be a director, officer or employee of that party, but need not be an elected member of that party's respective governing body. The role of each alternate Director shall be to assume the duties of the Director appointed by his/her member entity in case of the absence or unavailability of such Director. ~~The Directors and alternates shall continue to serve until their respective successors are appointed. 4/15/15~~

### **3.2 Advisory Committee and Other Committees**

The Board of Directors shall establish an advisory body known as the "Watershed Advisory Committee" ("WAC") that shall consist of representatives of the Members and representatives of the Interested Parties. Each Member and each Interested Party may appoint one member to the WAC. In addition to appointing a member to the WAC, each Member and each Interested Party may appoint at least one alternate to the WAC. Members and alternates shall be designated in writing by the respective governing body of each appointing entity. The WAC shall provide recommendations to the Board, but shall have no authority to take action that binds the Authority in any way. WAC members and alternates need not be elected representatives of their respective appointing entities. The WAC shall meet monthly or as determined by the WAC. ~~Each member of the WAC shall be entitled to one vote. 4/15/15~~ All questions and matters of any nature whatsoever coming before the WAC shall be determined, ~~provided a quorum is present, 4/15/15~~ through consensus, when possible. ~~No quorum is required for consensus decisions. 4/15/15~~ If consensus cannot be reached, passage will require an affirmative vote of seventy percent of the committee members present and voting at a meeting at which a quorum is present. (More detailed information regarding WAC is captured in charter and will be attached to Agreement as appendix.)

The Board of Directors may establish other committees as it determines necessary and shall establish membership, quorum, and voting requirements for all whenever the committees are established.

### **3.3 Participation Percentages**

The Participation Percentages of the Members shall be equal, and shall be automatically adjusted without further action of the parties or the Board of Directors upon the admission, withdrawal or termination of a Member. By way of example, "equal" participation percentages shall mean that if there are five members, the participation percentage of each member shall be 20%. The Participation Percentages may be otherwise changed only upon a vote of the Board of Directors. Any such change in the Participation Percentages shall be a Major Decision and shall not be deemed an amendment to this Agreement.

### **3.4 Seal; Bylaws**

The Board may (but need not) adopt an official seal for the Authority and adopt such bylaws as it may deem necessary to regulate the affairs of the Authority in accordance with this Agreement. The bylaws may be amended by the Board of Directors as it may deem necessary. Amendment of the Bylaws shall be a Major Decision.

### **3.5 Quorum**

A majority in number of the members of the Board of Directors or members of an advisory committee shall constitute a quorum for the transaction of Members' or the advisory committees' business, respectively. Each member of the Board of Directors shall be entitled to one vote. Any member of the Board of Directors abstaining from a vote shall be counted for purposes of determining the existence of a quorum, but shall not be deemed to be voting.

### **3.6 Meetings**

Meetings of the Board of Directors and Advisory Committee shall be conducted in accordance with the Ralph M. Brown Act, California Government Code Sections 54950, *et seq.*

The Board shall establish a regular meeting time and location, which shall be within Tuolumne or Calaveras County, California. The Board may change either the meeting time or location.

### **3.7 Special Activities**

With the prior approval of the Board of Directors, Members may undertake Special Activities in the name of the Authority. Prior to undertaking a Special Activity, the Members electing to participate in the Special Activity shall enter into a Special Activity Agreement with each other and the Authority. Such Activity Agreements shall provide that (i) no Special Activity undertaken pursuant to such agreement shall conflict with the terms of this Agreement and (ii) the Members to the Special Activity Agreement shall indemnify, defend and hold the other parties to this Agreement and the Authority harmless from and against any liabilities, costs or expenses of any kind arising as a result of the Special Activity described in the Special Activity Agreement. All assets, rights, benefits, debts, liabilities and obligations attributable to a Special Activity shall be assets, rights, benefits, debts, liabilities and obligations solely of the Members that have entered into the Special Activity Agreement for that Special Activity, in accordance with the terms of the Special Activity Agreement, and shall not be the assets, rights, benefits, debts, liabilities and obligations of those Members that have not executed the Special Activity Agreement or the Authority. This subsection shall survive the termination or expiration of this Agreement.

Special Activities shall include, but are not limited to, applying for grants on behalf of select members of the Authority and implementation, management, and/or monitoring of projects on behalf of select members of the Authority. The specifics of such activities will be spelled out in detail in the Special Activity Agreement to include the roles and responsibilities of Member agencies and the distribution of costs among the participating Member agencies.

### **3.8 Officers**

The officers of the Authority shall include a Chairperson, a Vice-Chairperson who shall serve in the absence of the Chairperson, a Secretary-Treasurer, and such other officers as the Board of Directors may appoint. Each officer shall serve at the pleasure of the Board of Directors, or for such terms as the Board of Directors may establish, and shall have those powers set forth in this Agreement or delegated to them by the Board of Directors.

## **Section 4. Financial Provisions**

### **4.1 Fiscal Year**

The Fiscal Year of the Authority shall be from July 1<sup>st</sup> through June 30<sup>th</sup> of each year.

### **4.2 Funds; Accounts**

Subject to subsection "Fiscal Agent" of this Agreement, the Secretary-Treasurer shall be responsible for all money of the Authority from whatever source and for maintaining compliance with Section 6505.5 of the California Government Code. All funds of the Authority shall be strictly and separately accounted for and regular reports shall be rendered of all receipts and disbursements at least quarterly during the

Fiscal Year. The books and records of the Authority shall be open to inspection by the Members and to the extent provided by resolution or indenture. The Secretary-Treasurer shall contract with a certified public accountant to make an annual audit of the accounts and records of the Authority which shall be conducted in compliance with Section 6505 of the California Government Code.

#### **4.4 Budget/Workplan**

By a date set by the Board of Directors each Fiscal Year, the Board of Directors shall adopt an annual budget and workplan for the Authority for the ensuing Fiscal Year. Adoption of the annual budget and workplan, or any amendment thereof, shall be a Major Decision. **Any amendment to the budget shall also be a Major Decision. 4/15/15**

#### **4.5 Payments to the Authority**

All fees, costs and expenses incurred by the Authority for Member actions and activities shall be allocated to and paid by the Members in accordance with the Participation Percentages as defined in subsection "Participation Percentages" on a schedule set by the Board of Directors; provided, that no Member shall be obligated to make any such payment unless and until such Member's governing body has approved and appropriated the funds necessary to make such payment. In the event a payment by a Member is otherwise required but is not made because such Member's governing body has not approved such payment or appropriated the funds necessary to make such payment, such Member shall be subject to termination as a Member pursuant to subsection "Admission, Withdrawal and Termination of Members" but upon any such termination shall not be liable for the amount of such payment.

#### **4.6 Property; Bonds**

The Secretary-Treasurer, in addition to any other officers designated by the Authority, shall have charge of, handle, and have access to any property of the Authority. The Secretary-Treasurer, in addition to any other officers having charge of any property of the Authority, shall acquire such fidelity bonds or comparable insurance covering such officers and persons in amounts designated by the Board of Directors. Such designation shall be subject to ratification by the Members in compliance with California Government Code Section 6505.1.

### **Section 5. Contract Management; Fiscal Agent**

#### **5.1 Management**

In addition to, or in lieu of, hiring employees, the Authority may engage one or more third parties to manage any or all of the business of the Authority on terms and conditions acceptable to the Board of Directors. A third party so engaged may, but need not, be a Member. The Authority shall not hire, for compensation, any Member. Any third party so engaged shall have such responsibilities as are set forth in the contract for such third party's services.

#### **5.2 Fiscal Agent**

Without limiting the breadth of subsection "Management", the Board of Directors may select a Member or a third party to act as the fiscal agent for the Authority pursuant to an agreement with the fiscal agent approved by the Board of Directors.

### **Section 6. Relationship of Authority and its Members**

#### **6.1 Separate Entity; Property**

In accordance with California Government Code Section 6507, the Authority shall be a public entity separate from the parties to this Agreement. To the greatest extent permitted by law, otherwise agreed herein the debts, liabilities and obligations of the Authority shall not be debts, liabilities or obligations of the Member entities. The Authority shall own and hold title to all funds, property and works acquired by it during the term of this Agreement. The Board of Directors shall first offer any properties, works, rights and interests of the Authority for sale to the highest bidder of the member entities. If no such sale to the highest bidder is consummated, then the Board of Directors shall offer the properties, works, rights and interests of the Authority for sale to any governmental agency, private entity or persons for good and adequate consideration. The net proceeds from any sale shall be distributed among the Members in proportion to their Participation Percentages. If no such sale is consummated, then all of the properties, works, rights and interests of the Authority shall be allocated to the then Members in the same manner as the allocation of the net proceeds from the sale.

## **6.2 Admission, Withdrawal and Termination of Members**

Additional qualified parties may join in this Agreement and become Members upon the approval of the Board of Directors. Prior to being admitted as a new Member, a party shall

- I. execute an agreement to be bound by the terms of this Agreement as if such party had been an original signatory hereto and
- II. pay an amount set by the Board of Directors to make the contributions to Authority activities by all Members (including the new Member) equitable.

The admission of a new Member and determination of such amount shall be a Major Decision.

Any Member may withdraw from this Agreement by giving 90 days written notice of its election to do so, which notice shall be written, from the withdrawing Member's governing body, and given to the Board of Directors and to each of the other parties; provided, that such withdrawal does not in any way impair any contracts, resolutions, indentures or other obligations of the Authority then in effect. In the event of a disagreement between the Authority and the withdrawing party as to whether such withdrawal shall cause the impairment of any contracts, resolutions, indentures or other obligations of the Authority, such determination shall be a Major Decision requiring a two thirds vote of the directors representing the non-withdrawing Members present and voting. Subject to the foregoing, a Member's withdrawal will be effective 90 days from the date the notice of withdrawal is provided.

A withdrawing Member shall in all events remain liable for its proportionate share of

- I. any call for funds or assessment levied by the Authority prior to the date it provides its notice of withdrawal,
- II. any contribution required by subsection "Agreed Upon Share of Liability or Judgment for Damages" to reflect the Participation Percentages in existence at the time the subject act or omission occurred, and
- III. the amount of any annual budget approved not more than 60 days prior to the date it provides its notice of withdrawal; provided, that a Member not concurring in an amendment of this Agreement that withdraws within the 90-day period described in subsection "Amendment" shall not be liable for any such amounts except to the extent they are delinquent on the date of withdrawal.

Any Member may be terminated, by a vote of the Board of Directors and upon termination shall no longer be a member of the Authority. The sole grounds for termination of any Member shall be any substantial or ongoing breach of: any obligation or duty required by this Agreement, as it may be amended from time to time; any rules, regulations, or bylaws the Board may adopt; or any future

agreement made in furtherance of the goals of this Agreement. Termination of a Member shall be a Major Decision. A Member so terminated shall not be liable for the amounts described in clauses (i), (ii) and (iii) of the immediately preceding paragraph except to the extent they are delinquent on the date of termination.

In the event a Member withdraws from the Authority or is terminated in accordance with the terms and conditions hereof, such Member shall not receive a refund of any amounts advanced to the Authority by such Member prior to the date of its withdrawal or termination.

### **6.3 Disposition of Property upon Termination or Determination by Board of Surplus**

Upon termination of this Agreement or upon determination by the Board of Directors that any surplus money is on hand, such surplus money shall be returned to the then member entities of the Authority which contributed such monies in proportion to their Participation Percentages.

### **6.4 Liability of Board, Officers, Committee Members and Advisors**

The members of the Board, as well as Officers, committee members and the advisors to the Board or committees of the Authority shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. They shall not be liable for any mistake in judgment or any other action made, taken or omitted by them in good faith, nor for any action taken or omitted by any agency, employee or independent contractor selected with reasonable care, nor for loss incurred through investment of Authority funds.

No member of the Board, Officer, committee member, or advisor to any Board of committee shall be responsible for any action taken or omitted to be taken by any other Director, Officer, committee member, or advisor to any committee. No member of the Board, Officer, committee member or advisor to any committee shall be required to give a bond or other security to guarantee the faithful performance of their duties pursuant to this Agreement.

The funds of the Authority shall be used to defend the Authority, and defend, indemnify, and hold harmless any member of the Board, Officer, committee member or advisor to any committee for their action taken within the scope of the authority of the Authority.

Nothing herein shall limit the right of the Authority to purchase insurance to provide such coverage.

### **6.5 Insurance**

The Board of Directors shall, at least annually, review the general liability, automobile, directors and officers, and other insurance coverage maintained by the Authority for adequacy and determine the nature, extent and limits of insurance to be maintained by the Authority. The Authority shall purchase and maintain such insurance as the Board determines to be appropriate after such review.

## **Section 7. Miscellaneous Provisions**

### **7.1 Amendment**

Amendments to this Agreement are considered a Major Decision. To provide non-concurring parties an opportunity to withdraw from the Authority as provided herein, an amendment shall be binding on all parties hereto 60 days after the required concurrence has been obtained.

### **7.2 Severability and Validity of Agreement**



Should the participation of any party to this Agreement, or any part, term or provision of this Agreement be decided by the courts or the legislature to be illegal, in excess of that party's authority, in conflict with any law of the State of California, or otherwise rendered unenforceable or ineffectual, the validity of the remaining portions, terms or provisions of this Agreement shall not be affected thereby and each party hereby agrees it would have entered into this Agreement upon the same terms as provided herein if that party had not been a participant in this Agreement.

### **7.3 Assignment**

Except as otherwise provided in this Agreement, the rights and duties of the parties to this Agreement may not be assigned or delegated without the approval of the Board of Directors, which approval shall be a Major Decision. Any attempt to assign or delegate such rights or duties in contravention of this section shall be null and void. Any assignment or delegation permitted under the terms of this Agreement shall be consistent with the terms of any contracts, resolutions or indentures of the Authority then in effect. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto. This section does not prohibit a party from entering into an independent agreement with another agency regarding the financing of that party's contributions to the Authority or the disposition of proceeds which that party receives under this Agreement so long as such independent agreement does not affect, or purport to affect, the rights and duties of the Authority or the parties under this Agreement.

### **7.4 Execution in Parts or Counterparts**

This Agreement may be executed in parts or counterparts, each part or counterpart being an exact duplicate of all other parts or counterparts, and all parts or counterparts shall be considered as constituting one complete original and may be attached together when executed by the parties hereto. Facsimile signatures shall be binding.

### **7.5 Notices**

Notices authorized or required to be given pursuant to this Agreement shall be in writing and shall be deemed to have been given when mailed, postage prepaid, or delivered during working hours to the addresses set forth for each of the parties beneath their signatures on this Agreement, or to such other changed addresses communicated to the Authority and the member entities in writing.

### **7.6 Governing Law and Venue**

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of California, excluding any conflict of laws rule which would apply the law of another jurisdiction. Venue for purposes of the filing of any action regarding the enforcement or interpretation of this Agreement and any rights and duties hereunder shall be Tuolumne and Calaveras County, California. The parties to this Agreement hereby expressly waive any right to remove any action to a county other than Tuolumne or Calaveras Counties as permitted pursuant to California Code of Civil Procedure Section 394.

### **7.7 Attorney's Fees**

If any party commences any proceeding or legal action to enforce or interpret any term, covenant or condition of this Agreement, the prevailing party in such proceeding or action shall be entitled to recover from the other party its reasonable attorney's fees and legal expenses.

### **7.8 Secretary of State**

A notice of this Agreement, plus one copy, shall be filed with the Secretary of State within 30 days after the effective date as required by Government Code section 6503.5.

IN WITNESS WHEREOF, the parties hereto, pursuant to resolutions duly and regularly adopted by their respective governing boards, have caused their names to be affixed by their proper and respective officers as of the day and year first above-written.

NAME OF MEMBER: \_\_\_\_\_

By:

Its:

By:

Its:

Dated:

Member's Address:

\_\_\_\_\_  
\_\_\_\_\_