

[This agreement contemplates only the minimum obligation of the participating agency – without grant money. This agreement will be amended upon grant award.]

## **DRAFT Cooperative Agreement for Implementation of the Sonoma-Mendocino Immediate Drought Relief Project**

This agreement (“Agreement”) is by and between **Sonoma County Water Agency**, a body corporate and politic of the State of California (“Water Agency”), and **Redwood Valley County Water District**, a ~~County Water District~~ (“District”). The Effective Date of this Agreement is the date the Agreement is last signed by the parties to the Agreement.

### **RECITALS**

- A. California is in the third year of a significant drought that has reduced water storage levels to unprecedented low levels and caused critical water shortages in some communities in Sonoma and Mendocino Counties. The proposed Sonoma-Mendocino Immediate Drought Relief Project (Project) offers immediate drought relief and long-term water savings. The Project will increase water use efficiency and increase drought resilience in the region for years to come and is in part a response to the Governor’s emergency drought declaration that set a 20 percent water demand reduction goal. The Project will reduce demand for water from Lake Mendocino and from local groundwater supplies.
- B. The Project will launch a scalable water conservation program in areas affected by the drought that have not historically implemented water conservation programs by providing incentives directly to customers.
- C. On June 2, 2014, the Department of Water Resources released an expedited 2014 Integrated Regional Water Management Drought Grant Solicitation, seeking projects that would provide immediate measurable water savings. The Project was one of eleven projects submitted on July 21, 2014, to DWR by the North Coast Resource Partnership. If the Project is awarded Integrated Regional Water Management Drought Grant funds, the parties intend to amend this Agreement to reflect the amount of grant money awarded (anticipated to be \$15,750) and grant requirements.
- D. District desires Water Agency’s assistance in developing and implementing the District water use efficiency Program as described in Exhibit A.
- E. The Project is designed to provide immediate, long-term water savings and allow the District to transition into an ongoing conservation program, eventually managed by the District.
- F. Water Agency and District do mutually desire to cooperate in the implementation of Project.

In consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

**AGREEMENT**

**1. RECITALS**

1.1. The above recitals are true and correct.

**2. LIST OF EXHIBITS**

2.1. The following exhibits are attached hereto and incorporated herein:

- a. Exhibit A: Project Summary
- b. Exhibit B: Insurance Requirements

**3. DEFINITIONS**

3.1. For the purposes of this Agreement the following terms and definitions shall be used:

- a. Contractor: Licensed contractor hired to perform contractor work.
- b. Participant(s): District-approved water customer(s) who apply to participate in individual Programs as described in Exhibit A.
- c. Programs: Components of the Project as identified in Exhibit A.
- d. Project: Collectively, the water conservation Programs described in Exhibit A and related activities District and Water Agency have agreed to perform in cooperation. The Project offers immediate drought relief and long-term water savings which will increase water use efficiency throughout the Russian River Watershed.
- e. Site: The location where Program(s) will be implemented.
- f. Water Agency Representative: Water Agency staff assigned to perform Water Agency's responsibilities.
- g. District Representative: District staff assigned to perform District's responsibilities.
- h. Water Agency-run Program: Water conservation Programs described in Exhibit A and implemented for District by Water Agency.
- i. District-run Program: Water conservation Programs described in Exhibit A and implemented by District.

**4. COORDINATION**

4.1. District shall coordinate work with Water Agency. Contact information:

<b>Water Agency</b>	<b>District</b>
Water Agency Representative: Carrie Pollard, or assigned personnel Phone: 707-547-1968 Email: <a href="mailto:Carrie.Pollard@scwa.ca.gov">Carrie.Pollard@scwa.ca.gov</a> 404 Aviation Boulevard	District Representative: Bill Koehler, General Manager, or assigned personnel Phone: 707-485-0679 Email: <a href="mailto:gmrvcwd@pacific.net">gmrvcwd@pacific.net</a> PO Box 399

Santa Rosa, CA 95403-9019	Redwood Valley, CA 95470
<b>Remit invoices to:</b> Susan Bookmyer  Same address as above or Email: <a href="mailto:susan.bookmyer@scwa.ca.gov">susan.bookmyer@scwa.ca.gov</a>	<b>Remit invoices or payments to:</b> [Attn: Accounts Receivable] OR [Same as Above] <u>Same as above</u>
<b>Remit payments to:</b> Jennifer Murray Same address as above or Email: <a href="mailto:Jennifer.Murray@scwa.ca.gov">Jennifer.Murray@scwa.ca.gov</a>	

**5. DISTRICT'S RESPONSIBILITIES**

- 5.1. Administration: Administer District-run Programs as described in Exhibit A.
- 5.2. Applicant Review: Review the Water Agency-submitted list of applicants requesting to participate in Project to determine if applicant is a qualified Participant to participate in Project.
- 5.3. Communication: Provide regular communication monthly via email or phone with Water Agency Representative on budget tracking and other issues as required.
- 5.4. Monthly Status Reports: Provide Water Agency Representative with monthly status reports of District-run Programs in a form acceptable to Water Agency, including work progress, a complete cost accounting by Program with backup documentation, and electronic copies of marketing materials.
- 5.5. Insurance: With respect to performance of work under this Agreement, District shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit B (Insurance Requirements).
- 5.6. Record Keeping: Maintain complete and accurate records of all transactions in compliance with generally accepted accounting principles for enterprise accounting as promulgated by the American Institute of Certified Public Accountants and the Governmental Accounting Standards Board. Such records shall be available to Water Agency at all reasonable times for inspection and analysis.
- 5.7. Payment: Make payment(s) to Water Agency as specified in Paragraph 7.

**6. WATER AGENCY'S RESPONSIBILITIES**

- 6.1. Administration: Administer Water Agency-run Programs as described in Exhibit A.

- 6.2. Coordination: Coordinate, document, and report on the Programs that Water Agency performs, including management, administration, budget, and follow-up of the Programs described in Exhibit A, and respond to incoming calls from District customers, as needed.
- 6.3. Collateral Materials: Design Project brochures, applications, and other outreach materials and provide electronic files to District.
- 6.4. Contract Administration: Adminjster contracts with Contractors hired by Water Agency.
- 6.5. Quarterly Reports: Prepare quarterly reports summarizing status of Programs completed by Water Agency and submit the report to District.
- 6.6. Record Keeping: Water Agency will maintain complete and accurate records of all Water Agency costs and transactions associated with performance of Water Agency's responsibilities under this Agreement in compliance with generally accepted accounting principles for enterprise accounting as promulgated by the American Institute of Certified Public Accountants and the Governmental Accounting Standards Board. Such records will be available to City at all reasonable times for inspection and analysis.

## 7. FUNDING

- 7.1. Project Maximum Obligation: The amount of District's obligation under this agreement shall not exceed \$~~7,500~~.
  - a. Water Agency-run Programs: Estimated amount for Water Agency-run Programs: \$~~7,000~~.
  - b. District-run Programs: Estimated amount for District-run Programs: \$~~500~~.
- 7.2. Payment to Water Agency:
  - a. Amount: District shall pay Water Agency for services and materials incurred by Water Agency under this Agreement. Reimbursement amount shall be determined based on actual costs of expenses: applicable materials and services, including plumber services.
  - b. Invoices: Water Agency will invoice District monthly for reimbursement of expenses incurred by Water Agency for Project. Invoices submitted to District by Water Agency shall include a complete cost accounting by Program and be clearly marked with "Cooperative Agreement for Implementation of the Sonoma-Mendocino Immediate Drought Relief Project, Order No. ~~7844~~." Upon receipt, review, and approval of invoice, District shall pay Water Agency for costs as authorized herein and itemized in said invoice(s).
- 7.3. If costs run over the amount listed in paragraph 7.1 above for District-run Programs, District shall pay for services and materials incurred.

**8. TERM OF AGREEMENT**

8.1. This Agreement shall expire on April 30, 2015, unless terminated earlier in accordance with the provisions of Article 9 (Termination).

**9. TERMINATION**

9.1. This Agreement may be terminated by either party for any reason upon thirty calendar days' written notice. Water Agency's right to terminate may be exercised by Water Agency's General Manager. Water Agency shall be reimbursed for all expenses incurred up to the date of termination.

**10. AUTHORITY TO AMEND AGREEMENT**

10.1. Changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Notwithstanding this authority, neither Water Agency nor District is under any obligation to approve such amendments.

**11. INDEMNIFICATION**

11.1. Each party shall defend, indemnify, hold harmless, and release the other, its officers, agents, and employees, from and against any and all actions, claims, damages, liabilities, or expenses that may be asserted by any person or entity, including the parties, to the extent that such actions, claims, damages, liabilities, or expenses arise out of the negligence or willful misconduct of the indemnifying party in connection with its performance under this Agreement. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

**12. MISCELLANEOUS PROVISIONS**

12.1. *No Bottled Water:* In accordance with Water Agency Board of Directors Resolution No. 09-0920, dated September 29, 2009, no Water Agency funding shall be used to purchase single-serving, disposable water bottles for use in Water Agency facilities or at Water Agency-sponsored events. This restriction shall not apply when potable water is not available.

12.2. *No Waiver of Breach:* The waiver by Water Agency of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

12.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of

competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. District and Water Agency acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. District and Water Agency acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

- 12.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.
- 12.5. *No Third-Party Beneficiaries:* Except as provided in Article 11 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
- 12.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the city of Santa Rosa, in the County of Sonoma.
- 12.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
- 12.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.
- 12.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.
- 12.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

Reviewed as to funds:

By: \_\_\_\_\_  
Water Agency Division Manager -  
Administrative Services

Approved as to form:

By: \_\_\_\_\_  
Cory O'Donnell, Deputy County Counsel

**Redwood Valley County Water District, <sup>INCORPORATED</sup>**  
**County Water District**

By: \_\_\_\_\_  
~~District Manager~~ *President*

Date: \_\_\_\_\_

Reviewed as to form:

By: \_\_\_\_\_  
**District's Attorney**

**Sonoma County Water Agency**

By: \_\_\_\_\_  
Grant Davis  
Water Agency General Manager  
Authorized per Water Agency's Board of  
Directors Action on 8/19/14

Date: \_\_\_\_\_

## Exhibit A

### Project Summary

#### 1. WATER AGENCY-RUN PROGRAMS

- 1.1. The High-Efficiency Fixture Direct Install Program: Water Agency will implement a direct installation program for retrofitting inefficient fixtures with new high-efficiency fixtures including toilets, urinals, showerheads, bathroom faucet aerators, and kitchen faucet aerators. Fixtures will be installed by professional plumbers contracted by Water Agency under separate contract. The Program will follow the guidelines below:
- a. Water Agency will offer a maximum of two high-efficiency toilets, toilet seats, wax rings, bolt kits, toilet recycling, and labor for installation per residential dwelling unit, and, if necessary, an angle stop with water supply line, flange or riser. During the installation appointment, the Water Agency-hired plumber will also check the showers, and bathroom and kitchen sinks and replace inefficient showerheads and aerators with water-efficient models. The Water Agency-hired plumber will also perform a leak check at the water meter. For commercial properties, existing urinals will be replaced with 0.125 gpf high-efficiency urinals.
  - b. Participant must receive water from and be in good standing with District.
  - c. For residential sites, building must be built before 1992 to be eligible for the fixture replacement.
  - d. Building must have at least one high-flush (3.5 gpf or more) toilet or (1.0 gpf or more ) urinal.

#### 2. DISTRICT-RUN PROGRAMS

[sample ↓]

- 2.1. Cash for Grass Turf Rebate: District will implement a turf conversion rebate program providing incentives for replacing turf (lawn) with low water use plants. The Program will follow the guidelines below:
- a. District will offer Participants a \$0.50 / sq. ft rebate for converting high water use turf to low water use plant material (up to max of 500 sq. ft or \$250)
  - b. Participant must receive water from and be in good standing with District.
  - c. Area to be converted must have been irrigated consistently during peak demand periods (summer irrigation months of June through September) during the previous two years as evidenced from historical water use history.

- d. Replace lawn with low water-use plants or permeable landscape surfaces (mulch, decomposed granite, etc.). The following components are not allowed: plastic sheeting, artificial turf, asphalt, or concrete.
- e. Overhead spray must be converted to point source irrigation. A filter and pressure regulator must be installed on drip systems.
- f. Participant must agree that lawn will not be reinstalled while the participant maintains ownership of the property. If lawn is reinstalled during that time, the entire rebate amount must be refunded.

## Exhibit B

### Insurance Requirements

District and Water Agency shall maintain insurance and/or self-insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. The insurance shall be maintained for the entire term of this Agreement.

#### 1. Workers Compensation and Employers Liability Insurance

- a. Workers Compensation insurance with statutory limits as required by the Labor Code of the State of California.
- b. Employers Liability with minimum limits of \$1,000,000 per Accident; \$1,000,000 Disease per employee; \$1,000,000 Disease per policy.
- c. *Required Evidence of Insurance*: Certificate of Insurance.

#### 2. General Liability Insurance

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance.
- d. Each party's insurance and/or self-insurance program shall be endorsed to cover the other party as an additional insured for liability arising out of operations under this Agreement. This coverage shall apply be primary to, and non-contributory with, any insurance or self-insurance program maintained by the additional insured.
- e. The policy shall cover inter-insured suits between the parties and include a "separation of insureds" or "severability" clause which treats each insured separately.
- f. *Required Evidence of Insurance*:
  - i. Copy of the additional insured endorsement or policy language granting additional insured status; and
  - ii. Certificate of Insurance.

#### 3. Automobile Liability Insurance

- a. Minimum Limits: \$1,000,000 combined single limit per accident.
- b. Insurance shall apply to all owned, hired and non-owned vehicles.
- c. *Required Evidence of Insurance*: Certificate of Insurance.

#### 4. Documentation

- a. The Certificate of Insurance must include the following reference: TW # 14/15-015, Sonoma-Mendocino Immediate Drought Relief Project.
- b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Each party agrees to maintain current Evidence of Insurance on file with the other for the entire term of this agreement.

- c. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- d. Each party shall provide the other with immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.

**5. Policy Obligations**

The indemnity and other obligations of the parties shall not be limited by the foregoing insurance requirements.