

**First Amended  
Memorandum of Understanding  
Regarding  
Sonoma-Marin Saving Water Partnership**

**SECTION 1 — RECITALS**

(a) The original Memorandum of Understanding (“Original (MOU)”) was adopted on December 14, 2010 by and between the following public agencies: Sonoma County Water Agency (Agency), City of Cotati (Cotati), City of Petaluma (Petaluma), City of Rohnert Park (Rohnert Park), City of Santa Rosa (Santa Rosa), City of Sonoma (Sonoma), North Marin Water District, (NMWD), Valley of the Moon Water District (VOMWD), Marin Municipal Water District (MMWD), and Town of Windsor (Windsor) (collectively, the “Parties”), and expires as of [DATE].).

(b) The Original MOU established the Sonoma-Marin Saving Water Partnership (SMSWP).

(c) The Sonoma County Water Agency (“Agency”) was created by California state legislation (Statutes of 1949, Chapter 994 as amended). The Agency operates and maintains a water supply and transmission system authorized by the Restructured Agreement for Water Supply (the “Restructured Agreement”), dated June 23, 2006, which is incorporated by reference herein, between and among the Agency and the following eight (8) “Water Contractors”: Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma, Windsor, NMWD, VOMWD, by means of which water is furnished to the parties thereto.

(d) The Agency furnishes water to MMWD pursuant to that certain Fourth Amended Off-peak Water Supply Agreement, and that certain Agreement for Sale of Water Between the Sonoma County Water Agency and Marin Municipal Water District, both of which were last amended by the Renewal of the Third Amended Off-peak Water Supply Agreement and

Agreement for Sale of Water Between the Sonoma County Water Agency and Marin Municipal Water District dated July 16, 2015 (collectively, the “2015 MMWD Agreements”).

(e) The Restructured Agreement authorizes the Agency to undertake or fund any cost effective Water Conservation Project that has been approved by the Water Advisory Committee (“WAC”). The Parties recognize that establishing common water conservation projects on a regional basis and applicable across the political and jurisdictional boundaries of each Party (“Regional Water Conservation Projects”) may be a means of cost- effectively conserving more water than would otherwise be conserved on an individual agency-by-agency basis.

(f) The Restructured Agreement, at Section 1.12, sets forth the Water Conservation Requirements that the Water Contractors must implement and encourages said parties to implement Water Conservation Projects (“Local Water Conservation Projects”) that go beyond those requirements.

(g) The Restructured Agreement establishes a Water Conservation Sub-Charge to be deposited in a Water Conservation Fund created by the Agency. The Water Conservation Fund shall be used only to pay or partially pay for the cost of Water Conservation Projects. The aggregate amount of money to be received by the Agency from the Water Conservation Sub-Charge for each fiscal year shall be sufficient to cover the Agency’s estimate of the total cost of all Regional Water Conservation Projects for such fiscal year.

(h) The WAC approved Fifteen Million Dollars (\$15,000,000) for implementing Water Conservation Projects pursuant to the Water Conservation Plan dated June 29, 1998 over a ten-year period commencing with Fiscal Year 1997-98, and an additional Fifteen Million Dollars (\$15,000,000) pursuant to the Original MOU over a ten-year period commencing with Fiscal Year 2007-2008.

(i) The Parties further recognize that the Restructured Agreement establishes a Water Conservation Subcommittee (the “Subcommittee”) of the Technical Advisory Committee (“TAC”) to the WAC to make recommendations with respect to Water Conservation Requirements pursuant to the Restructured Agreement.

(j) All Parties to this First Amended MOU will be granted representation on the Subcommittee.

(k) This First Amended MOU shall be effective as of [DATE], the date this First Amended MOU is executed by six (6) of the parties (the “Effective Date”), and supersedes all previous agreements with respect to the subject matter hereof.

## **SECTION 2 - DEFINITIONS**

Undefined capitalized terms used in this First Amended MOU shall have the meaning ascribed to them in Section 1.2 of the Restructured Agreement.

## **SECTION 3 – PURPOSE**

The purpose of this First Amended MOU is to determine the amounts to be budgeted and expended by each Party for water conservation, allow new parties to join the Subcommittee to make recommendations on Regional Water Conservation Projects for consideration by the TAC, and to maximize cost-effective water conservation by the Parties in Sonoma and Marin Counties. This First Amended MOU recognizes the commitment to reduce potable water demands to meet or exceed the targets established by the Parties or the state.

## **SECTION 4 - COMMITMENT**

(a) Each Party, except the Agency, commits to do all of the following:

(1) Remain as a member in good standing of the California Water Efficiency Partnership (“Cal-WEP”), and implement or use best efforts to secure the implementation

of any water conservation requirements that may be added as terms or conditions of the Agency's appropriative water rights permits or license, or with which the Agency must comply under compulsion of regulation or law. The Parties shall require metered billing of all customer accounts they serve.

(2) Implement various water conservation measures, as may be appropriate for the particular Party, that provide regional benefits and/or that may exceed the targets established from time to time by the Parties or the state.

(3) Designate a staff member responsible for: (i) coordinating interaction between that Party's management and council/board and the Agency staff; and (ii) represent the Party on the Subcommittee to propose any Local or Regional Water Conservation Project that will increase water conservation amounts or efficiency, including water conservation related tasks as directed by the WAC such as regional collaboration of water shortage contingency plans, regional outreach and messaging, or specific initiatives for regional benefit in the Sonoma-Marín area.

(4) Provide customer service support and data collection for Agency staff administering Regional Water Conservation Projects.

(5) Provide financial data support and cost accounting data for the Agency and the Party's staff administering the Regional Water Conservation Projects or Party-specific Local Water Conservation Projects.

(6) Provide staff support to review new development plans and construction for consistency with regional water conservation recommendations of the Subcommittee and, when requested, make said data information available to the Agency staff administering the Regional Water Conservation Projects.

(7) Acknowledge that in coordination with the Subcommittee, the TAC will elect a TAC member or designee to represent the Parties as their spokesperson for water conservation and water efficiency policy.

(b) The Agency is committed to participate in Regional Water Conservation Projects as defined herein, by doing all of the following, without limitation:

(1) Remain as a member in good standing of Cal-WEP, by implementing or using best efforts to secure the implementation of any water conservation requirements that may be added as terms or conditions of the Agency's appropriative water rights permits or license, or with which the Agency must comply under compulsion of regulation or law. The Agency shall require metered billing of all customer accounts it serves.

(2) Upon request of the other Parties, prepare and administer Funding and Administration Agreements to provide staff support to carry out Local Water Conservation Projects.

(3) Administer Regional Water Conservation Projects including, but not limited to, the 2016 Regional Water Conservation Projects listed in Exhibit A attached hereto and incorporated by reference herein.

(4) Compile necessary data and, in conjunction with the other Parties, publish an annual report for the Parties detailing water conserved compared to plan and based on best available techniques and industry standards.

(5) Pursue the addition of new parties to this First Amended MOU, including but not limited to water suppliers along the upper Russian River, stormwater utilities, and Groundwater Sustainability Agencies.

(6) Coordinate periodic information sharing meetings among the Parties.

(7) Pursue grants that will benefit the Parties in implementing Water Conservation Projects.

(8) In collaboration with the other Parties, prepare a strategic plan to promote long term goals for the implementation of water conservation programs.

## **SECTION 5 – NEW PARTIES**

Any public water system, stormwater utility, Groundwater Sustainability Agency, or local or regional public entity operating along the upper Russian River or public entity that receives water from the Russian River Watershed is eligible to become a party.

Upon approval of the TAC, based on a recommendation by the Subcommittee, an eligible agency may become a party by:

- (a) Paying an annual Water Conservation Fund fee to the Agency, for Regional Water Conservation Projects, upon joining. The annual Water Conservation Fund fee for each new party shall be based on either the methodology established in Section 6 (Regional Water Conservation Projects Funding) hereof, or a recommendation of the Subcommittee that is approved by the TAC; and
- (b) Agreeing to budget and expend funding for Local Water Conservation Projects based on either the established methodology in Section 7 (Local Water Conservation Project Funding) hereof, or a recommendation of the Subcommittee that is approved by the TAC; and
- (c) Executing this First Amended MOU and thereby agreeing to be subject to all provisions herein, including, but not limited to, completing and attaching the form set forth as Exhibit B to specify the amount to be contributed to the Water Conservation Fund and the amount to be budgeted and expended for Local Water Projects.

All new parties will be granted representation on the Subcommittee and will be eligible to participate in the Regional Water Conservation Projects. If annual fees are not paid to the Agency by March 30 of each year, a party's membership in the SMSWP shall be terminated.

## **SECTION 6 – REGIONAL WATER CONSERVATION PROJECTS FUNDING**

Funding for the SMSWP shall be from the Agency Water Conservation Fund as contributed to by the Water Contractors and MMWD pursuant to the Restructured Agreement. For Water Contractors the Agency shall calculate and collect, as a part of the Operations and Maintenance charge, a Water Conservation Sub-Charge, which monies shall be deposited in the Water Conservation Fund. For MMWD and Agency Customers, not party to the Restructured Agreement, an equivalent amount shall be included as a component of the Operation and Maintenance Charge and shall be deposited in the Water Conservation Fund.

The Parties that are not Customers of the Agency shall annually fund Regional Water Conservation Projects in an amount recommended by the Subcommittee and approved by the TAC, which funds shall be deposited in the Water Conservation Fund.

The aggregate amount of money to be received by the Agency for each Fiscal Year and deposited to the Water Conservation Fund shall be sufficient to cover the Agency's estimate of the total cost of all Regional Water Conservation Projects for such Fiscal Year.

## **SECTION 7- LOCAL WATER CONSERVATION PROJECTS FUNDING**

In addition to contributions to the Water Conservation Fund noted in Section 6 herein, from July 1, 2018 through June 30, 2028, a total of Fifteen Million Dollars (\$15,000,000) shall be budgeted and expended by the Water Contractors and MMWD, collectively, to implement Local Water Conservation Projects to achieve the quantifiable water savings. The amount to be internally budgeted and expended annually by each Water Contractor and MMWD for Local Water Conservation Projects (Annualized Amount) shall be budgeted and expended over the next ten

(10) years to support Local Water Conservation Projects benefiting the Water Contractors and MMWD. The Annualized Amount to be budgeted and expended by each Water Contractor and MMWD shall be based upon the prorated share of three- (3) year average annual total water supplied for potable distribution, including SCWA deliveries and potable water production by each Water Contractor and MMWD. The Annualized Amount to be budgeted shall be as follows: Cotati, Seventeen Thousand Five Hundred Dollars (\$17,500), (1.16%); Petaluma, One Hundred Seventy One Thousand Five Hundred Dollars (\$171,500), (11.44%); Rohnert Park, Ninety-Four Thousand Three Hundred Dollars (\$94,300), (6.28%); Santa Rosa, Three Hundred Seventy Four Thousand Four Hundred Dollars (\$374,400), (24.96%); Sonoma, Thirty Nine Thousand Eight Hundred Dollars (\$39,800), (2.66%); North Marin Water District, One Hundred Sixty Eight Thousand Dollars (\$168,000), (11.20%); Valley of the Moon Water District, Fifty Three Thousand Four Hundred Dollars (\$53,400), (3.56%); Windsor, Sixty Eight Thousand Six Hundred Dollars (\$68,600), (4.58%) and Marin Municipal Water District, Five Hundred Twelve Thousand Four Hundred Dollars (\$512,400), (34.16%); based upon total annual water production in fiscal year 2015, 2016 and 2017. The above Annualized Amounts shall be adjusted in fiscal years 2022 and 2025 on the same prorated basis noted above to reflect the then-current three- (3) year average annual total water production. The addition of new parties will not alter the Annualized Amounts nor the cumulative total amount to be budgeted and expended by the Water Contractors and MMWD for Local Water Conservation Projects.

To support Local Water Conservation Projects, new parties to this First Amended MOU shall budget and expend an Annualized Amount of at least 175% of their Water Conservation Fund fee.

Revenue from the Water Conservation Sub-Charge collected from Windsor by the Agency for all water diverted by Windsor directly from the Russian River using its own facilities, whether

under Windsor's water rights or Agency's water rights, shall be placed in a separate account by the Agency and made available to Windsor as additional funding for Water Conservation Projects.

#### **SECTION 8 - WAIVER OF RIGHTS**

By signing this MOU, the Parties do not waive or relinquish any legal or equitable right that they might otherwise have with respect to any of the actions, activities, or obligations contemplated by the Restructured Agreement, except as expressly provided herein.

#### **SECTION 9 - AMENDMENT OF FIRST AMENDED MOU**

Amendments, revisions or modifications to this First Amended MOU shall be in writing and shall be executed by all Parties hereto. The addition of new parties to the MOU pursuant to Section 5 shall not be construed as an amendment requiring any further approval or execution of any of the other Parties.

#### **SECTION 10 - THIRD PARTY CLAIMS**

It is not the intent of the Parties to this First Amended MOU to create any third-party beneficiaries. Any failure to perform under the terms of this First Amended MOU shall not create any claim or right by any individual or entity not a party to this First Amended MOU.

#### **SECTION 11 - ENTIRE AGREEMENT**

This writing is intended both as the final expression of agreement between and among the Parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the First Amended MOU, pursuant to California Civil Code §1896.

#### **SECTION 12 - RELATION TO RESTRUCTURED AGREEMENT AND MMWD AGREEMENTS**

The Parties understand and agree that this First Amended MOU supplements the Restructured Agreement and the MMWD Agreements. The Parties agree that in the event of an inconsistency between this First Amended MOU and the Restructured Agreement (or, for the

Agency and MMWD, between this First Amended MOU and the MMWD Agreements), the provisions of the Restructured Agreement (or, for the Agency and MMWD, the MMWD Agreements) shall control.

### **SECTION 13 - TERM**

The First Amended Memorandum of Understanding Regarding Sonoma-Marín Saving Water Partnership shall become effective upon the signature of six (6) of the Parties and shall remain in effect until June 30, 2028, unless extended or terminated earlier. Other of the Parties may sign on as of or after the effective date.

### **SECTION 14 – COUNTERPART SIGNATURES**

This First Amended MOU may be executed in counterparts, and each executed counterpart shall have the same force and effect as an original instrument and as if all of the Parties to the aggregate counterparts had signed the same instrument.

SONOMA COUNTY WATER AGENCY

By: \_\_\_\_\_  
Chair, Board of Directors

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

ATTEST:

\_\_\_\_\_  
Clerk, Board of Directors

CITY OF COTATI

By: \_\_\_\_\_  
Mayor

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

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF PETALUMA

By: \_\_\_\_\_  
Mayor

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

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF ROHNERT PARK

By: \_\_\_\_\_  
Mayor

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

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF SANTA ROSA

By: \_\_\_\_\_  
Mayor

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

ATTEST:

\_\_\_\_\_  
City Clerk

CITY OF SONOMA

By: \_\_\_\_\_  
City Manager

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

ATTEST:

\_\_\_\_\_  
City Clerk

NORTH MARIN WATER DISTRICT

By: \_\_\_\_\_  
President

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

ATTEST:

\_\_\_\_\_  
Secretary

VALLEY OF THE MOON WATER DISTRICT

By: \_\_\_\_\_  
President

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

ATTEST:

\_\_\_\_\_  
Secretary

MARIN MUNICIPAL WATER DISTRICT

By: \_\_\_\_\_  
President

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

ATTEST:

\_\_\_\_\_  
Secretary

TOWN OF WINDSOR

By: \_\_\_\_\_  
Mayor  
City Manager

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

ATTEST:

\_\_\_\_\_  
Town Clerk

## Exhibit A

### 2016 Regional Water Conservation Projects

- Regional Multi-Media Outreach Campaign
- Partnership website promotion
- Water Education materials available for local schools
- Sonoma County Green Business Program
- Qualified Water Efficient Landscaper (English and Spanish training, including graywater training)
- Annual Eco-Friendly Garden Tour
- Russian River/ Bay Friendly Landscaping
- Water Smart Plant labels in local nurseries
- Daily Acts Community Resilience Challenge
- Master Gardener's Garden Sense Program
- Representation at the Sonoma County Fair
- Green Car Wash Certification
- Legislative Tracking
- Water Wise Gardening website for Sonoma and Marin counties
- Water Smart Plant Cards
- Do-It-Yourself Energy and Water Savings Toolkit

Exhibit B  
Contribution Amount Form  
for New, non-Water Agency Customer Signatory  
(to be completed and attached to the First Amended MOU)

**Regional Water Conservation Projects Funding**

[Organization Name] shall pay an annual Water Conservation Fund fee to fund Regional Water Conservation Projects in the amount of \_\_\_\_\_ per the recommendation by the Subcommittee and approved by the TAC, which amount shall be deposited in the Water Conservation Fund.

**Local Water Conservation Project Funding**

[Organization Name] shall internally budget and expend at least 175% of their Water Conservation Fund fee as their Annualized Amount to support Local Water Conservation Projects or an amount recommended recommendation by the Subcommittee and approved by the TAC equivalent to \_\_\_\_\_.

For [Organization Name]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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