

**AGREEMENT TO FORM A JOINT POWERS AUTHORITY KNOWN AS THE
MID-KINGS RIVER GROUNDWATER SUSTAINABILITY AGENCY**

THIS AGREEMENT TO FORM A JOINT POWERS AUTHORITY KNOWN AS THE MID-KINGS GROUNDWATER SUSTAINABILITY AGENCY ("Agreement") is made effective and entered into November 22, 2016, by and between the KINGS COUNTY WATER DISTRICT ("District"), a California county water district formed and existing under the provisions of the County Water District Act, set out at Water Code § 30000-33901, COUNTY OF KINGS, a political subdivision of the State of California ("County"), as defined by California Government Code Section 23000 et seq., and the CITY OF HANFORD ("City"), a California general law city as defined by California Government Code Section 34102 (hereinafter referred to individually as "Member" and collectively as "Members"), with reference to the following matters:

RECITALS:

A. In September 2014, the Governor signed three bills (SB 1168, SB 1319, and AB 1739) into law creating the Sustainable Groundwater Management Act ("SGMA"). SGMA was amended in September and October 2015 when the Governor signed SB 13 and AB 617, respectively; and

B. SGMA authorizes the formation of entities called Groundwater Sustainability Agencies ("GSA"), one or more of which are authorized to implement provisions of SGMA as to each groundwater basin and subbasin falling within the provisions of SGMA; and

C. The Members overlie the Tulare Lake Subbasin (5-22.12 of the Department of Water Resources Bulletin 118 classifications) ("Subbasin") of the San Joaquin Valley Basin ("Basin"), an adjudicated groundwater basin, portions of which underlie the jurisdictional boundaries of each Member; and

D. Each of the Members is a local government entity with water supply, water management, and/or land use responsibilities within the Subbasin and is qualified individually to serve as a GSA under the provisions of SGMA; and

E. Under SGMA, a combination of local agencies may elect to form a GSA through a joint powers agreement; and

F. The Members intend, by this Agreement, to create a joint powers authority that will serve as a GSA for all or portions of their jurisdictional areas covering a portion of the Subbasin; and

G. Under SGMA, each GSA is responsible for assuming its regulatory role by June 30, 2017, and for submitting a Groundwater Sustainability Plan ("GSP") to the Department of Water Resources by January 31, 2020; and

H. The Members, through the Authority (as defined below), intend to work cooperatively with other GSAs to create a Basin-wide GSP or enter into a Coordination Agreement with other

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GSAs if multiple GSPs must be knit together over the Subbasin. The Members desire, once successfully electing to be a GSA, to begin collecting and organizing data, engaging and retaining experts and consultants, and soliciting feedback from beneficial users, users of groundwater and interested parties within the portion of the Subbasin subject to their jurisdiction, for the purpose of contributing to a Subbasin-wide GSP or for the purpose of creating a GSP for the portion of the Subbasin within their jurisdictional boundaries that will be one of multiple GSPs for the Subbasin that will be coordinated by agreement; and

I. The Members intend by this Agreement to provide for the management and funding commitments reasonably anticipated to be necessary for the above purposes; and

J. The County intends to participate in this JPA in order to ensure complete SGMA coverage in this area of the Tulare Lake Subbasin. The County intends for City and District to manage the SGMA implementation, reserving to itself a possible future participatory role in SGMA implementation. Such a future role is separate and distinct from the County's regulatory, land use, and police powers, which are reserved unto the County by State statute and Constitution, and to which the GSA is subject pursuant thereto. . The areas included through the County's political boundary are generally in white areas within the District's external boundary, County islands within the City, and a few small areas just outside the District's external boundary. The geographic boundaries of the GSA contemplated by the Members are set forth in the map attached hereto as Exhibit "A", which is incorporated herein by this reference; and

K. The Members intend by this Agreement to provide a framework for cooperative efforts for all entities and individuals within the Authority's jurisdictional area and to implement SGMA in the most effective, efficient, fair and reasonable way possible, and at the lowest reasonable cost.

NOW THEREFORE, in consideration of the premises and the promises, terms, conditions, and covenants contained herein, the Members hereby agree as follows:

ARTICLE I GENERAL PROVISIONS

Section 1.01. Creation of Authority. Pursuant to California Government Code Section 6500, et. seq., there is hereby created a public entity to be known as the "Mid-Kings River Groundwater Sustainability Agency" ("Authority"), which shall be a public entity separate and apart from the Members, and shall administer this Agreement.

Section 1.02. Purposes. The purposes of this Agreement are:

- (a) To create a Joint Powers Authority separate from its Members that will serve as a GSA for a portion of the Subbasin;
- (b) To develop, adopt, and implement a GSP in order to implement SGMA's

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requirements and achieve sustainability goals outlined in SGMA; and

- (c) To enter into a Coordination Agreement or similar agreement with other GSAs in order to meet the sustainability requirements outlined in SGMA.

ARTICLE II POWERS

Section 2.01. Powers. The Authority is hereby authorized, in its own name, to do all acts necessary for the exercise of all powers authorized under SGMA and necessary to satisfy the requirements of SGMA.

Section 2.02. Restrictions on Exercise of Powers. Pursuant to Government Code Section 6509 et. seq., the powers of the Authority shall be exercised and restricted in the same manner as those imposed upon the County.

Section 2.03. Obligations of the Authority. No debt, liability or obligation of the Authority shall constitute a debt, liability or obligation of any of the Members, appointed members of the Board of Directors, or committee members.

Section 2.04. Water Rights. As provided in Water Code Section 10720.5, groundwater management under this Authority shall be consistent with Section 2 of Article X of the California Constitution and any GSP adopted by the Authority shall not determine or alter surface water rights or groundwater rights under common law or any provision of law that determines or grants surface water rights.

Section 2.05. Precedence of Land Use Authority. Nothing in this Agreement or a future groundwater sustainability plan shall be interpreted as superseding the land use authority of County or City, including the County General Plan and the City General Plan (W.C. § 10726.8(f).)

ARTICLE III GOVERNING BODY

Section 3.01. Governing Board. The Authority shall be governed by a Board composed of Directors ("Board"). All voting power of the Authority shall reside in the Board.

- (a) The Directors shall be appointed as follows:
 - (1) Three (3) elected members of the governing body of the District; and
 - (2) One (1) elected member of the governing body of the City.
 - (3) One (1) representative of the Stakeholder Committee, as hereinafter described, nominated by said Committee and appointed by the Board.
- (b) Each Member shall appoint one person, who is either an elected member of the governing body of the Member entity or on the staff of such Member entity, to serve as an

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alternate Director of the Board in the same manner as the Director is appointed by the Member. Any such alternate shall be empowered to cast votes in the absence of the regular Director or in the event of a conflict of interest preventing the regular Director from voting.

(c) Directors and alternate Directors shall serve at the pleasure of the Member that they represent and may be removed or replaced as follows:

- (1) Directors and alternate Directors may be removed or replaced at any time by their governing board; and
- (2) Directors may be removed by the Board for failure to attend at least three (3) consecutive Board meetings without excuse (e.g. illness, medical or family emergency, jury duty, other legally required appearance); and
- (3) The office of a Director or alternate Director who is no longer either an elected member of the governing body of his/her appointing agency or on the staff of such entity that qualified such Director to serve on the Board shall be deemed automatically vacant.

A Board vacancy shall be filled by the outgoing appointee's governing board.

Section 3.02. Meetings of the Board. The Board shall call and conduct its meetings in accordance with Government Code Section 54950 et. seq.

Section 3.03. Minutes. The Secretary shall cause to be kept minutes of the meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director and to each of the Members.

Section 3.04. Voting. Each Director position on the Board shall have one vote.

Section 3.05. Quorum; Required Votes; Approval. A quorum of the Board for convening of any meeting shall consist of a majority of all Director positions. A quorum of the Board must be present at the time of any vote on any matter before the Board. An affirmative vote of at least a majority of the Director positions present in a quorum of the Board, shall be required for any action of the Board. Notwithstanding the foregoing, approval of certain types of matters shall require the approval of two-thirds (2/3rds) of all Director positions (meaning at least four (4) votes to approve, which would proportionately increase as members are added, if any). The items requiring approval of two-thirds (2/3rds) of all Director positions are: adoption and amendment of budgets, assessments, litigation, hiring or termination of the chief executive officer, adoption or amendment of a GSP, the addition of new Members, the termination or removal of Members, execution and amendment of a Coordinating Agreement with other GSAs, and amendment of this Agreement.

Section 3.06. Bylaws. The Board may adopt bylaws and governing regulations consistent with this Agreement, which may be amended from time-to-time, for the conduct of its meetings and as may be necessary for the purposes hereof.

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Section 3.07. Terms of Office. The initial term of office for two (2) District appointees and one (1) City appointee serving on the Board is four (4) years. For the purpose of providing staggered terms of office, the initial term of one (1) District appointee and one (1) appointee representing the Stakeholder Committee shall be for a period of two (2) years. Thereafter, the term of office for each Director shall be for a period of four (4) years.

ARTICLE IV COMMITTEES

Section 4.01. Committee Formation. Committees shall be formed by the Board in order to advise the Board on matters that fall within the scope of the particular committee's assignment. Committees may be standing committees or ad hoc committees. The Board shall appoint one (1) Director or alternate Director to be a voting member of and the Chair of each committee. Committees shall meet as often as directed by the Board or, if no such direction is given, as often as necessary, as determined by the Chair of the committee. Two (2) standing committees shall be formed as soon as reasonably practical, but in no event later than one hundred and twenty (120) days after formation of the Authority. The standing committees are as follows:

- (a) Stakeholder Committee. Committee members shall fall within categories of interested persons or representatives of interested entities as described in SGMA. Committee members shall be appointed by the Board from among applicants.
- (b) Technical Advisory Committee. Each Director shall be entitled to appoint one (1) technical person to be a member of the Technical Advisory Committee.

ARTICLE V OFFICERS AND EMPLOYEES

Section 5.01. Chair and Vice-Chair. During the Board's first regular meeting of each year, the Board shall elect a Chair and a Vice-Chair from among the Directors. The Chair and the Vice-Chair shall serve at the pleasure of the Board and shall perform the duties normally required of said offices.

- (a) The Chair shall: (1) preside at and conduct each meeting of the Board, (2) represent the Board as directed by the Board, (3) be an ex-officio member of each committee established by the Board, and (4) perform such other duties as may be imposed by said Board;
- (b) The Vice-Chair shall act and perform all of the Chair's duties in the absence of the Chair; and
- (c) The Chair or Vice-Chair may sign all contracts and agreements as approved by the Board.

Section 5.02. Secretary. The Board shall appoint a Secretary from among the employees of

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the Authority, the employees of the Members, or if no such employees exist, a consultant. The Secretary shall serve at the pleasure of the Board. The Secretary shall act on behalf of the Authority and perform such other duties as may be imposed by the Board. The Secretary may sign agreements for the Authority when authorized by the Board.

Section 5.03. Treasurer and Auditor.

- (a) The Treasurer is designated as the fiscal agent and depository for the Authority. The initial Treasurer for the Authority shall be the General Manager of the District, or designee thereof. The Authority shall reimburse the District for all contributions and expenses incurred by the District pursuant to the District General Manager's role as Treasurer, or for any other administrative assistance provided to the Authority by the District. The Authority and the District may enter into a separate agreement regarding reimbursement of the District for any and all contributions and expenses incurred by the District consistent with this Section.

Thereafter, the Treasurer shall be appointed by the Board. The Treasurer shall be the depository and have custody of all money of the Authority, from whatever source, subject to the applicable provisions of any indenture or resolution providing for a trustee or other fiscal agent. All funds of the Authority shall be held in the joint operating fund, established later in this Section, or in such other separate accounts as may be necessary, in the name of the Authority and not commingled with the funds of any Member or any other person or entity. Full books and accounts shall be maintained for the Authority in accordance with practices established by, or consistent with, those utilized by the Controller of the State of California for public entities. The books and records of the Authority shall be open to inspection by the Members at all reasonable times, and by bondholders and lenders to the extent provided by resolution or indenture.

The Authority shall have the power to establish a joint operating fund. The fund shall be used to pay all administrative, operating and other expenses incurred by the Authority, and will initially be funded by Member contributions as set forth in the initial and annual operating budgets. The Treasurer shall draw checks or warrants or make payments by other means for claims or disbursements not within an applicable budget only upon the approval of the Board and in accordance with Board directions and authorizations concerning authorized account signatories. The Authority's Members may invest any money in the treasury that is not required for its immediate necessities in the same manner, and upon the same conditions, as any local agency may do pursuant to Government Code Section 53635.

- (b) There shall be strict accountability of all funds, and the Treasurer designated by the Board shall report any and all receipts and disbursements to the Board with such frequency as shall reasonably be required by the Board. The Authority will utilize the services of an outside independent certified public accountant (Auditor) to make

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an annual audit of the accounts and records of the Authority as required by Government Code Section 6505, unless the Board, by unanimous vote, elect to conduct the audit for a two (2) year period. In each case, the minimum requirements of the audit shall be those prescribed by the State Controller for special districts pursuant to Government Code Section 26909, and shall conform to generally accepted accounting principles. The Auditor selected by the Authority shall be formally designated by a resolution adopted by majority vote of the quorum present stating the effective date of the appointment and the term of the appointment.

Section 5.04. Officers in Charge of Records; Funds; and Accounts. Pursuant to Government Code Section 6505.1, the Treasurer shall have charge of, handle and have access to all accounts, funds and money of the Authority and all records of the Authority relating thereto; and the Secretary shall have charge of, handle and have access to all other records of the Authority.

Section 5.05. Employees and Consultants. The Board may hire employees and consultants, including engineers, accountants and attorneys, to provide services and leadership to the Authority to accomplish the purposes of the Authority.

ARTICLE VI

ACCOUNTS AND REPORTS; FUNDS

Section 6.01. Accounts and Reports. The Treasurer shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of the Authority shall be open to inspection at all reasonable times by the public and representatives of the Members. The Auditor, within one hundred twenty (120) days after the close of each Fiscal Year, shall give a complete written report of all financial activities for such Fiscal Year to the Members.

Section 6.02. Annual Budget. The Board shall annually adopt a budget for the Authority. The Treasurer shall disburse funds as set forth in the adopted budget. Members shall make contributions which shall be included in the budget adopted by the Board. A Director's affirmative vote to approve a budget does not constitute consent to finance or otherwise participate in any project or projects within that budget.

Section 6.03. Intention for Reimbursement for Expenditures from Alternative Funds. It is the intention of the Members that the advancement of monies by any Members for expenses of the operational needs of the Authority shall be reimbursed from the proceeds of grants or other funds, if alternative funds are obtained and such reimbursement is allowed by law. Additionally, in accordance with Government Code Section 6512.1, the Board may direct repayment or return to the Members of all or part of the contributions made by the Members, upon such terms as may be consistent with any indebtedness incurred by the Authority. Unless otherwise prohibited by the alternative funding source, said alternative source's funds will be disbursed before local funds for covered Authority obligations.

Section 6.04. Assessment of Members. The Board may vote to assess Members for a share

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of costs incurred by the Authority or which are anticipated to be incurred by the Authority based on methods described below. Assessments paid by Members shall be treated as loans to the Authority.

It is the intent of the Members to financially support the Authority only until the Authority can financially sustain itself by developing a reliable funding stream through assessments, water charges or other potential fees. Once the Authority becomes financially self-sustaining, the Members will be reimbursed for the initial start-up funding provided to the Authority. Reimbursement will occur such that the oldest contributions will be reimbursed before newer contributions.

The method of cost allocation among the Members is envisioned to evolve over time. However, as a starting place, it has been agreed that for the initial fiscal budget, costs will be split 73% to the District, 23% to the City and 4% to the County, which allocation is partially based on acres of land within each agency's coverage area. Cost sharing for subsequent budgets will be negotiated in good faith at the time when those budgets are considered. Notwithstanding the foregoing, and because it has no voting rights nor is it actively engaged in implementation, County shall not be required to fund any portion of indemnification triggered by Section 9.03 of this Agreement, but will nevertheless remain an indemnified party.

All assessments shall be paid by Members within sixty (60) days of the approval of the assessment by the Board.

ARTICLE VII MEMBERSHIP

Section 7.01. Other Members. The Board may vote to approve other entities to be Members of the Authority, as well as to appoint representatives of new Members serving as Directors and alternate Directors on the Board.

Section 7.02. Removal of Member. The Board may vote to remove any Member as a member of the Authority.

ARTICLE VIII TERM; WITHDRAWAL; TERMINATION

Section 8.01. Term. The Authority shall continue in existence until dissolved by the Members. Dissolution of the Authority will occur only by unanimous written consent of all Members.

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Section 8.02. Withdrawal of Member/Territory. A Member may terminate its membership in the Authority at any time, or, alternatively, authorize the withdrawal of land within its service area or political boundary, by giving sixty (60) days' prior written notice of the withdrawal to the Authority. A withdrawing Member shall be entitled to: (i) all data and information gathered and developed by the Authority and the Authority's contractors and consultants through the end of the then-current fiscal year or the effective date of the Member's withdrawal, whichever is later; and (ii) an interest in the Authority's assets in proportion to the withdrawing Member's past unreimbursed contributions and its share of obligations and liabilities for which it will remain responsible following withdrawal. Any such withdrawal shall continue to obligate the Member to pay its share of all debts (e.g. budgeted funding commitments within the fiscal year, indebtedness related to asset acquisition, regulatory fees), liabilities, and obligations incurred or accrued prior to the effective date of such withdrawal, as well as the cost of amending the Subbasin GSP if triggered by either Member or Territory withdrawal.

Should a Member choose to withdraw from the Authority or to authorize the withdrawal of territory within its service area or political boundary in accordance with the terms of this Agreement, that Member expressly retains the right to serve as the GSA or, alternatively, will ensure GSA coverage by another entity, in coordination with DWR and subject to the requirements of the Act, for that portion of the Subbasin underlying its jurisdictional boundaries or service area.

Section 8.03. Disposition of Assets. Upon termination of the Authority, any assets shall be returned to the Members in the same proportion said Members have funded such reserves or surplus, in accordance with California Government Code § 6512.

ARTICLE IX MISCELLANEOUS PROVISIONS

Section 9.01. Amendments. This Agreement may be amended by the Board at any time, or from time to time. No change, amendment or modification of this Agreement shall be valid unless the same be in writing and signed by the Members.

Section 9.02. Claims. All claims against the Authority, including, but not limited to, claims by public officers and employees for fees, salaries, wages, mileage, or any other expenses, shall be filed within the time and in the manner specified in Chapter 2 (commencing with Section 910) of Part 3, Division 3.6 of Title I of the Government Code, which describes the appropriate content of a claim.

Section 9.03. Indemnification. The Authority shall indemnify, defend, and save harmless the Members, their officers, agents, and employees, and appointed members of the Board of Directors, their officers, agents, and employees, and committee members, their officers, agents, and employees, from and against any and all claims and losses whatsoever, occurring or resulting to persons, firms, or corporations furnishing or supplying work, services, materials or supplies to the Authority in connection with the performance of this Agreement, and, except as expressly provided by

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law, from any and all claims and losses accruing or resulting to any persons, firm or corporation, for damage, injury, or death arising out of or connected with the Authority's performance of its obligations under this Agreement. Nothing herein shall limit the right of the Authority to purchase insurance or to create a self-insurance mechanism to provide coverage for the foregoing indemnity.

Section 9.04. Insurance. The Authority shall obtain insurance for all Members, appointed members, and committee members, including but not limited to directors' and officers' liability insurance and general liability insurance containing policy limits in such amounts as the Board of Directors shall determine will be necessary to adequately insure against the risks of liability that may be incurred by the Authority.

Section 9.05. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions will remain in force and unaffected to the fullest extent permitted by law and regulation.

Section 9.06. Sole and Only Agreement. This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the matters set forth herein and contains all of the covenants and agreements between the parties regarding said matters. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or in writing, have been made by any party or anyone acting on behalf of any party which are not embodied in this Agreement and no other agreement, statement or promise shall be valid or binding.

Section 9.07. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.

Section 9.08. Waiver of Conflict.

- (a) This Agreement has been reviewed by Raymond Carlson ("Carlson") for the District and by Ty Mizote ("Mizote") for the City. Carlson and Mizote are partners in the law firm of Griswold, LaSalle, Cobb, Dowd & Gin, L.L.P. ("the law firm"). The law firm is counsel for the District and the City in other matters.
- (b) The law firm has explained to each of the undersigned that, in the event of a dispute involving this Agreement, or the rights of the parties hereunder, each of the parties will be required to retain independent legal counsel. The law firm has also explained to each of the undersigned potential areas of conflict of interest in the law firm's review of this Agreement for the respective parties.
- (c) Each of the undersigned acknowledges the aforementioned advisements and waives any such conflict of interest. District and City warrant and represent that, prior to executing this document, each has reviewed this Agreement with that counsel, legal or otherwise, which the undersigned have deemed necessary, reasonable and

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appropriate to protect their respective interests.

- (d) Each of the undersigned is knowingly, willingly, and voluntarily executing this Agreement after such advice and counsel, and with the understanding and intent that this Agreement shall be enforceable by and against each of the Parties in accordance with its terms, and the Agreement will not be void or voidable due to any conflict of interest arising from the law firm's review of this document for the respective parties.

Section 9.09. Notices. All notices required or permitted by this JPA or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified, or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by electronic transmission (email) and shall be deemed sufficiently given if served in a manner specified in this Section 5. The addresses and addressees noted below are that Party's designated address and addressee for delivery or mailing of notices.

To City of Hanford:	City of Hanford City Manager 315 North Douty Street Hanford, CA 93230 Telephone: 559-585-2515
To Kings County Water District:	Kings County Water District General Manager 200 North Campus Drive Hanford, CA 93230 Telephone: 559-584-6412
To County of Kings:	County of Kings Community Development Director 1400 W. Lacey Blvd., Bdg. #6 Hanford, CA 93230 Telephone: 559-852-2680
With copy to:	County Counsel 1400 W. Lacey Blvd., Bdg. #4 Hanford, CA 93230 Telephone: 559-852-2445

Any Party may, by written notice to the others, specify a different address for notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, three (3) days after the postmark date. If sent by regular mail, the notice shall be deemed given forty-eight (48) hours after it is addressed as required in this section and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantee next day delivery shall be deemed given

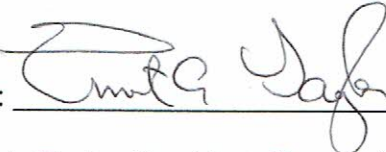
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twenty-four (24) hours after delivery to the Postal Service or courier. Notices transmitted by facsimile transmission or similar means (including email) shall be deemed delivered upon telephone or similar confirmation of delivery (confirmation report from fax machine is sufficient), provided a copy is also delivered via personal delivery or mail. If notice is received after 4:00 p.m. or on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

IN WITNESS WHEREOF, the Members hereto execute this Agreement to be effective on the date first written above.

District:

KINGS COUNTY WATER DISTRICT

By: 

Ernie Taylor, President, Board of Directors

City:

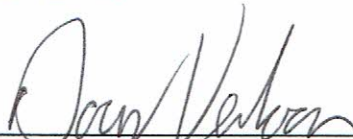
CITY OF HANFORD

By: 

Justin Mendes, Mayor

County:

COUNTY OF KINGS

By: 

Doug Verboon, Chairman
Kings County Board of Supervisors

