

## **JOINT WATER FACILITIES AND PUBLIC PRIVATE PARTNERSHIP AGREEMENT**

This is a Joint Water Facilities and Public Private Partnership Agreement ("Agreement") between the Camp Meeker Recreation and Park District ("CMRPD"), the Occidental Community Services District ("OCSD"), and The Alliance Redwoods Conference Grounds ("Alliance"), a California non-profit corporation, in connection with the provision of potable water service to their respective service areas in western Sonoma County, California with federal assistance from the United States of America, United States Department of Agriculture ("USDA") acting through Rural Utilities Service. Alliance, OCSD and CMRPD shall be referred to individually as a "Party" and collectively as the "Parties".

### **RECITALS**

WHEREAS, CMRPD and OCSD are public entities providing water services to residents, businesses and water users in contiguous service areas, and

WHEREAS, Alliance is a private company owning property located at 6250 Bohemian Highway, Occidental, California ("Alliance Property"), and

WHEREAS, on February 9, 2003, a joint public meeting of the respective boards of directors of CMRPD and OCSD was held and a joint resolution (#03-03) of both boards was considered, unanimously approved and adopted; whereby each entity agreed to share water, develop additional water sources and maintain a common main line transmission pipe for said water, and

WHEREAS on February 11, 2003, a second resolution (#03-04) was approved by CMRPD and OCSD further describing several elements of a process to achieve this goal, and

WHEREAS, CMRPD currently maintains a well, 6" main, water treatment facility, pump station and terminal tank system constructed to provide water to the community of Camp Meeker, and

WHEREAS, in 1999, CMRPD, with financial assistance from the USDA also constructed a water distribution system, pump station, storage tanks and controls to provide service to all customers within the District boundary, to include a pipeline extension constructed in Hampton Road to serve a fire hydrant at the intersection of Hampton Road and Bohemian Highway, and

WHEREAS, a portion of these facilities are available to deliver treated water to the community of Occidental, and

WHEREAS, on July 8, 2003, OCSD and CMRPD entered into a Joint Water Facilities Agreement (“Original Agreement”) to share facilities and resources for the benefit of their customers, and,

WHEREAS, OCSD and CMRPD wish to enter into this Agreement for the purpose of revising and updating the terms of their prior Agreement, and

WHEREAS, Alliance intends to contribute capital improvements to the CMRPD water system in exchange for the use of the joint facilities as set forth herein.

NOW THEREFORE, in consideration of the mutual promises, covenants and agreements herein, Alliance, OCSD and CMRPD agree to the following terms regarding the maintenance of a joint water transmission system as set forth below:

1. **Joint Transmission System:** CMRPD and OCSD have formed a shared water transmission system from infrastructure contributed by both parties. The parties further intend for Alliance to contribute infrastructure and capital improvements to be incorporated into the existing shared water transmission system. As used herein, the “Joint Transmission System” shall mean all infrastructure and facilities within the boundaries of CMRPD, including the capital improvements and infrastructure contributed by Alliance, that are used for the delivery of water pursuant to this Agreement, which shall include but not be limited to the following contributions from the Parties:

a. **CMRPD Contributions:**

- i. CMRPD shall contribute its constructed and operating production facility located at 21080 River Road near the Russian River (“Production Facility”), including well site, well, pump, motor, power service, electrical control, telemetry, security provisions and connection to constructed and operating transmission system.
- ii. CMRPD shall contribute the Treatment Plant located on the Alliance Property (“Treatment Plant”).

- iii. CMRPD shall contribute its constructed and operating transmission pipeline from the Production Facility to its Treatment Plant and extended to Market Street and Bohemian Highway in the center of Camp Meeker. CMRPD shall share use of its distribution main and Tower Road booster pump station to enable OCSD to transport water from Market Street to the intersection of Hampton Road and Bohemian Highway.
- iv. CMRPD shall further contribute the following constructed and operating facilities and infrastructure: Morelli Tank, Tower Tank, Baumert Tank, Tower Booster Pump, all components from the Treatment Plant north to the Russian River, all facilities at the Monte Rio Production Facility, the transmission main from the Monte Rio Production Facility wells to the Alliance Treatment Plant, all facilities at the Treatment Plant, the transmission main from the Treatment Plant to Market Street in Camp Meeker, and all facilities located at Tower Road booster pump station.

**b. OCSD Contributions:**

- i. OCSD has made a one-time payment to CMRPD in the sum of six hundred forty thousand dollars (\$640,000) to obtain the right to use thirty-two percent (32%) capacity in the Joint Transmission System.
- ii. OCSD has contributed the design, construction and installation of a well and pump at the Monte Rio Production Facility adjacent to the existing CMRPD well on the same site, that was matched, balanced and connected with the CMRPD pump and tied into the existing transmission system.

**c. Alliance Contributions:**

- i. Alliance shall contribute capital improvements to the Joint Transmission System to include the following components (collectively, the "Alliance Contributions"):
  - 1. One new (replacement) 10 horsepower pump
  - 2. Two new day tanks at the Alliance Treatment Plant,

3. Two new booster pumps to convey water from the Treatment Plant to Camp Meeker, which will be supplied to Russian River Utility and installed at a date thereafter to be determined by CMRPD,
4. Replacement of aged underground pipes at the Treatment Plant with new above-ground ductile iron piping, and
5. A contribution of \$91,000 toward a new SCADA system.

**2. Common Operations:**

- a. Water produced from existing and new wells developed by CMRPD and OCSD at the Russian River Production Facility and the Monte Rio Production Facility shall be available for use by the Parties.
- b. The raw water originating from both wells at the Production Facility is to be comingled. There shall be no additional charge for said raw water except as specified in this Agreement.

**3. Shared Operating and Maintenance Costs:** The Parties shall share the use and expense of the Joint Transmission System, as set forth in more detail below and depicted in Exhibit A:

- a. **Common Operating & Maintenance Costs:** Specific costs that shall be shared by each of the parties include chemicals used in treating the water, maintenance, utility bills, electrical power, insurance and emergency repairs related to the following components of the Joint Transmission System: (i) all wells, (ii) all pumps (except the Tower Booster), (iii) common elements of the telemetry system, and (iv) the treatment plant and all equipment and components therein, and excepting the costs associated with the equipment, infrastructure and components specified in paragraphs 3.b and 3.c. The shared obligations set forth herein shall include the costs of repairing and replacing the foregoing components of the Joint Transmission System resulting from wear and tear, breakage, or obsolescence. These costs, except as otherwise stated in this Agreement, shall be apportioned by the water consumed by each respective party relative to the total water produced into the system during the previous calendar year as determined by

metered records; provided, however, the first year allocation, based on estimated usages in fiscal year 2019 is stipulated to be:

CMRPD:	48.93
OCSD:	30.24
Alliance:	20.83

- b. CMRPD and OCSD Operating & Maintenance Costs: Specific costs that shall be shared by CMRPD and OCSD with respect to all equipment, infrastructure and components from the treatment facility to the connection at Hampton Road, including but not limited to: (i) Morelli Tank; (ii) Tower Booster Pump; (iii) Tower Tank; (iv) Baumert Tank; (v) telemetry related to the foregoing tanks; and (vi) the booster pumps at the treatment plant. The shared obligations set forth herein shall include the costs of repairing and replacing the foregoing components of the Joint Transmission System resulting from wear and tear, breakage, or obsolescence. These costs, except as otherwise stated in this Agreement, shall be apportioned by the water consumed by each respective party relative to the total water produced into the system during the previous calendar year as determined by metered records; provided, however, the first year allocation, based on estimated usages in fiscal year 2019 is stipulated to be:

CMRPD:	62.2
OCSD:	37.8

- c. OCSD Operating & Maintenance Costs: The following specific costs shall be the sole responsibility of OCSD: (i) Union Grover Boosters; (ii) Occidental only tanks; and (iii) telemetry related to the foregoing tanks.
- d. Each Party shall continue to be responsible for the costs associated with its individual distribution systems and operations that are not considered part of the Joint Transmission System.
- e. The annual charges shall be reviewed no more than once per year to adjust the allocation of expenses as per this Agreement. If the Agreement is amended or revised, the amendment shall be submitted to the Rural Utilities Service for review and approval.

4. **Joint Powers Advisory Committee:** A Joint Powers Advisory Committee shall be formed to administer the Joint Transmission System. The Joint Powers Advisory Committee shall consist of two (2) representatives of each Party to be nominated by their respective boards of directors. The Joint Powers Advisory Committee shall have the following responsibilities: (i) advance review and approval of operations, maintenance and repair expenditures under this Agreement that exceed \$5,000 per month in total and any single contract exceeding \$1,000; (ii) advance approval of capital improvement plans and specifications; and (iii) recommendations regarding Agreement interpretation and disputes among the Parties. In the event that the Joint Powers Advisory Committee is unable to reach a consensus, they shall call upon the Sonoma County Supervisor for the 5th District or other mutually agreed upon party to cast the deciding vote.

5. **Assumption of Duties and Obligations:**

a. **Common Obligations:**

- i. The Parties shall be responsible for the maintenance, repair and replacement of the Joint Transmission System components as set forth in paragraphs 3.a-c., above.
- ii. The testing of treatment plant water shall be the responsibility of the Joint Powers Advisory Committee. Testing shall include collecting and performing all tests required by law and collecting bacteriological and special water samples at the treatment plant and well field at the agreed shared cost ratios set forth in paragraph 3.a-c., above, provided that CMRPD shall be primarily for conducting maintenance, repair and replacement of the Joint Transmission System in accordance with the Operating Procedures and Protocols provided in paragraph 6 and other provisions of this Agreement.

b. **Sole Obligations of CMRPD:**

- i. CMRPD shall collect and test samples within CMRPD's distribution system as required by applicable law at its sole cost and expense.
- ii. CMRPD shall provide a reliable supply of water at the Hampton Road tie-in adequate to meet the needs of OCSD; provided,

however, CMRPD shall not be responsible for any water shortage due to conditions beyond its reasonable control such as drought, other public emergency, or infrastructure failure.

- iii. Although the expenses of maintaining and operating the Joint Transmission System described herein shall be shared by the Parties, the system shall be operated pursuant to the authority granted to CMRPD in accordance with paragraph 6.

**c. Sole Obligations of OCSD:**

- i. OCSD shall collect and test samples within OCSD's distribution system as required by the applicable law at its sole cost and expense.
- ii. OCSD shall maintain, repair and replace the water storage tanks, transmission and distribution systems located within the OCSD service area, including the distribution mains, and the transmission line in Bohemian Highway running from the Hampton Road tie-in to the OCSD service area at its sole cost and expense.

**d. Sole Obligations of Alliance:**

- i. Alliance shall maintain, repair and replace any and all components leaving the Treatment Plant that solely are used for the benefit of Alliance.

**6. Operating Procedures and Protocol**

- a. **Primary Responsibility for Operation, Maintenance, Repairs and Replacement of the Joint Transmission System:** CMRPD shall be responsible for day-to-day operations of the Joint Transmission System. CMRPD shall be primarily responsible for conducting maintenance, repairs and replacement of the Joint Transmission System and its components, subject to the provisions of this agreement including but not limited to the authority of the Joint Powers Advisory Committee to approve plans, specifications and expenditures (paragraph 4) and the sole obligations of parties (paragraphs 5.b, 5.c and 5.d). CMRPD may hire contractors to perform

maintenance, repairs and replacement of the Joint Transmission System or components thereof.

- b. **Operating Company for System:** CMRPD, in its discretion, may hire one operating company for the Joint Transmission System.
  - c. **Invoices and Billing:** If an operating company is hired, the operating company shall present invoices to CMRPD for services rendered and costs incurred. CMRPD shall submit the invoices of any operating company and contractors to OCSD, Alliance, and the Joint Powers Advisory Committee. After approval by the Joint Powers Advisory Committee, Alliance and OCSD shall remit payment to CMRPD on or before the date the invoice is due.
    - i. **Late Fees:** If Alliance and/or OCSD fail to remit payment for the due date of an invoice, CMRPD shall charge the responsible Party or Parties a late fee in the amount of \$250.
  - d. **Review and Verification:** Each party, or their designated accountant, has the right to inspect the financial, production and billing records of the other party upon reasonable notice and during regular business hours.
7. **Term:** This Agreement shall continue in force for a term of thirty-five (35) years. This term coincides with the time which all loans associated with establishing the Joint Transmission System described herein are projected to have been repaid. The parties acknowledge their intent that the arrangements for usage, maintenance and operations set forth in this Agreement shall continue after the 35-year term.
8. **Indemnification and Insurance**
- a. **Indemnification by OCSD:** OCSD shall indemnify, defend and hold harmless CMRPD and Alliance against all liability, demands, claims, suits, losses, damages, causes of action, fines or judgments including costs, attorneys' and witness fees and expenses incidental thereto for injuries (including death) to persons or property arising out of OCSD's performance or nonperformance of its duties hereunder, or water supplied to others, with the exception of those claims arising from the gross negligence or intentional misconduct of CMRPD and/or Alliance.

- b. **Indemnification by CMRPD:** CMRPD shall indemnify, defend and hold harmless OCSD and Alliance against all liability, demands, claims, suits, losses, damages, causes of action, fines or judgments including costs, attorneys' and witness fees and expenses incidental thereto for injuries (including death) to persons or property arising out of the performance or nonperformance of CMRPD's duties hereunder, or water supplied to others, with the exception of those claims arising from the gross negligence or intentional misconduct of OCSD and/or Alliance.
- c. **Indemnification by Alliance:** Alliance shall indemnify, defend and hold harmless CMRPD and OCSD against all liability, demands, claims, suits, losses, damages, causes of action, fines or judgments including costs, attorneys' and witness fees and expenses incidental thereto for injuries (including death) to persons or property arising out of the performance or nonperformance of Alliance's duties hereunder, or water supplied to others, with the exception of those claims arising from the gross negligence or intentional misconduct of OCSD and/or CMRPD.
- d. **Insurance:** During the term of this Agreement, CMRPD shall, as a shared expense, carry and maintain in full force and effect, insurance covering the Joint Transmission System and all shared operations above, of the following types and amount with such company or companies as are acceptable to OCSD and Alliance. OCSD and Alliance shall be named an additional insured on all policies. Such policy shall be non-cancelable by CMRPD without the written approval of OCSD.
- e. **Policy Limits:** The initial policy limits shall be in the amount of Five Million Dollars (\$5,000,000) or more combined single limit for bodily injury and property damage liability. Written proof of insurance to be provided to OCSD and Alliance on an annual basis.
- f. **Inspection Rights:** CMRPD agrees that OCSD and Alliance may inspect such policies at any time by contacting CMRPD and making arrangements to inspect the policies at a place, date and time mutually acceptable to the Parties.

9. **State Water Resources Control Board Division of Drinking Water (DDW) Approval:** All Parties must seek and gain approval from DDW prior

to implementing any and all changes or improvements to any facilities. Each party must apply for and obtain an amended water permit prior to their use of said facilities.

10. **CEQA Compliance:** Prior to development of Alliance's contributions to the Joint Transmission System, CMRPD and OCSD shall comply with the California Environmental Quality Act (Public Resources Code § 21000, et seq.) as appropriate and necessary.
11. **Performance Bonds:** prior to commencing development of the Alliance capital improvements described in paragraph 1.c., any contractors hired to perform work in connection therewith shall furnish a Performance Bond in the amount of one hundred percent (100%) of the contract price as security for the faithful performance of all the contractor's obligations under the contract documents. The Performance Bond shall be in a form acceptable to CMRPD and OCSD.
12. **Payment Bonds:** Before commencing development of Alliance's contributions to the Joint Transmission System, any contractor shall furnish a Labor and Materials (Payment) Bond in the amount of one hundred (100%) of the contract price, as security for the faithful performance of the contractor's obligations under the contract documents and which conforms with the requirements of California Civil Code Section 3248. The Labor and Materials Bond shall be in a form acceptable to the CMRPD and OCSD.
13. **Representations and Warranties:**
  - a. Alliance hereby represents and warrants that it has adequate financial resources to design and build its contributions to the Joint Transmission System and to contribute to the operations of the Joint Transmission System.
  - b. CMRPD and OCSD hereby represent and warrant that they have authority to impose fees on their customers for use of the Joint Transmission System in an amount sufficient to fund ongoing maintenance and repair of the Joint Transmission System as provided for in this Agreement.
  - c. CMRPD and OCSD hereby represent and warrant that in the event fees or service charges create revenues in excess of the actual cost for which the user fee revenues are dedicated, those revenues shall either

be applied to any indebtedness incurred by the respective Party with respect to the project, be paid into a reserve account in order to offset future operation costs, be paid into the appropriate government account, be used to reduce the user fee or service charge creating the excess, or a combination of these sources.

**14. Miscellaneous Provisions:**

- a. **No Waiver of Breach:** The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.
- b. **Entire Agreement:** This Agreement and the attached Exhibits constitute the entire Agreement between the Parties relating to this transaction. Any prior agreements, including without limitation the Original Agreement, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by the Parties hereto.
- c. **Construction:** This Agreement shall be construed and interpreted according to the applicable law of the State of California. Any action or proceeding brought to interpret, enforce or determine any of the provisions herein contained or the rights, duties, and responsibilities of the parties shall be, filed or brought in the County of Sonoma, State of California, which county and state shall have exclusive jurisdiction.
- d. **Severability:** 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, and 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.
- e. **Common Terms:** CMRPD and OCS D 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 this Agreement will not be construed against one party in

favor of the other. CMRPD and OCSD acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

- f. **Notice:** Any notice, tender, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered, mailed, or sent by wire or other telegraphic communication in the manner provided herein, as the following entities and addresses:

If to CMRPD:  
Camp Meeker Recreation and Park District  
Post Office Box 461  
Camp Meeker, CA 95461

If to OCSD:  
Occidental Community Services District  
Post Office Box 244  
Occidental, CA 95465

If to Alliance:

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

Each Party may change that Party's address for these purposes by giving written notice of the change to the other Party in the manner provided in this section. If sent by mail, any notice, delivery, or other communication shall be effective or deemed to have been given 3 days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by wire or other form of telegraphic communication, any notice, delivery, or other communication shall be effective or deemed to have been given twenty-four hours after it has been deposited with Western Union, or other carrier, prepaid and addressed as set forth above.

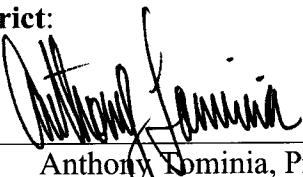
- g. The Parties agree that the USDA Rural Development has been granted a security interest in OCSD's rights and obligations under the contract, as security for the loan by the USDA Rural Development to the OCSD.

h. Nothing in this Agreement shall be construed to compromise the pre-existing obligations between CMRPD and the State of California, Department of Water Resources.

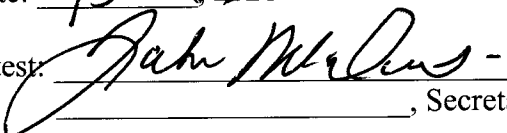
**Effective Date:** This Agreement shall be effective when approved by authorized representatives of each party through duly adopted resolutions which date shall be entered herein \_\_\_\_\_.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS Agreement as set forth below:

**Camp Meeker Recreation and Park District:**

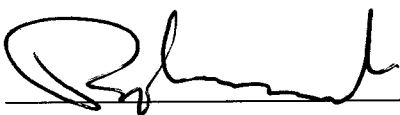
By:   
Anthony Tominia, President

Date: 3/5, 2021 2022 CB


Attest:   
John Melius, Secretary

Date: 3/5, 2021 2022 CB

**Occidental Community Services District:**

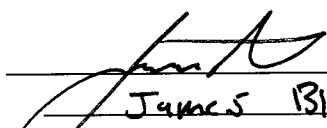
By:   
\_\_\_\_\_, President

Date: 3-22, 2021 2022

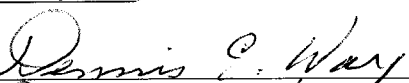
Attest:   
Tiffanie Herring, Secretary

Date: 3/22, 2021 2022 TH

**The Alliance Redwoods Conference Grounds:**

By:   
James Blake, President / Executive Director

Date: March 25, 2021 2022 CB

Attest:   
Dennis E. Way, Secretary

Date: March 2, 2021 2022 CB

# EXHIBIT A

## System Diagram

