

MEMORANDUM OF UNDERSTANDING
BETWEEN
MENDOCINO COUNTY RUSSIAN RIVER FLOOD CONTROL AND WATER
CONSERVATION IMPROVEMENT DISTRICT
AND
THE REDWOOD VALLEY COUNTY WATER DISTRICT
REGARDING
THE DEVELOPMENT OF AN ANNEXATION APPLICATION TO THE
MENDOCINO COUNTY LOCAL AGENCY FORMATION COMMISSION

This MEMORANDUM OF UNDERSTANDING (“**MOU**”), effective as of August 1, 2024 (“**Effective Date**”), is entered into by and between the Mendocino County Russian River Flood Control and Water Conservation Improvement District (“**RRFC**”), and the Redwood Valley County Water District (“**RVCWD**”). RRFC and RVCWD are sometimes referred to individually herein as a “**Party**” and collectively as the “**Parties**”.

RECITALS

WHEREAS, RRFC desires to collaborate with RVCWD to develop and submit an annexation application to the Mendocino County Local Agency Formation Commission (“**LAFCo**”) to extend the boundaries of RRFC to incorporate the entire service area of RVCWD (“**LAFCo Application**”); and

WHEREAS, RVCWD desires to collaborate with RRFC to develop and submit said LAFCo Application in order to be eligible to enter into a Uniform Water Supply and Purchase Agreement with RRFC; and

WHEREAS, the Parties desire by this MOU to detail the terms of their cooperation in (a) determining the feasibility of the LAFCo Application, (b) preparation of the LAFCo Application, (c) compliance with the California Environmental Quality Act (“**CEQA**”) and (d) submittal of the LAFCo Application to LAFCo (“**Work**”); and

WHEREAS, the Parties have determined RRFC shall contract with all consultants and legal counsel necessary to conduct the Work according to the terms and conditions of this MOU; and

WHEREAS, the Parties have determined RVCWD’s ad hoc committee formed to oversee preparation and submittal of the LAFCo Application shall serve as project advisor to RRFC and cooperate with RRFC and LAFCo as necessary; and

WHEREAS, RVCWD shall reimburse RRFC for all costs actually incurred by RRFC for the Work according to the terms and conditions of this MOU in an amount specified herein.

NOW, THEREFORE, the Parties agree as follows:

Section 1 – Scope of Work. The Parties agree to cooperate in the filing of the LAFCo Application by doing all of the following (“**Reimbursable Expenses**”):

(a) RRFC shall engage and contract with all third-party consultants necessary to prepare and submit the LAFCo Application. RRFC shall assume all legal and financial responsibility with respect to those third-party consultant contracts. RVCWD will cooperate as a party to the LAFCo Application and execute such documents or provide such information as necessary to process the same. Any legal fees incurred by RVCWD associated with preparation or submission of the LAFCo Application shall be borne solely by RVCWD.

(b) RRFC’s engineer shall prepare all mapping required for submittal of the LAFCo Application.

(c) RRFC’s legal counsel shall prepare all required CEQA documentation for the LAFCo Application. RRFC shall be the lead agency for CEQA purposes, and RVCWD shall be a responsible agency.

(d) RRFC shall pay all fees associated with submittal of the LAFCo Application to LAFCo.

(e) RRFC shall incur all other related fees and costs necessary to prepare and submit the LAFCo Application.

Section 2 – Reimbursement. RVCWD agrees to reimburse RRFC 60% of the cost of all Reimbursable Expenses incurred from the effective date of this MOU. RRFC will issue an invoice to RVCWD on a monthly basis specifically enumerating Reimbursable Expenses paid for by RRFC. RVCWD shall make payment of each invoice within sixty (60) days.

Section 3 – Roles. RRFC shall manage all Work necessary to prepare and submit the LAFCo Application. RVCWD’s ad hoc committee established to oversee the annexation shall serve as project advisor to RRFC with respect to the LAFCo Application.

Section 4 – Waiver. RVCWD hereby waives, as to RRFC’s directors, staff, engineer, attorney, consultants, employees or agents, any and all claims, damages, liability or losses arising from or related to review or approval of the plans, designs, specifications and other documents and data related to Work or any approval relating to Work by RRFC’s directors, staff, engineer, attorney, consultants, employees or agents. This waiver shall be binding on any and all successors to RVCWD.

Section 5 – Attorney’s Fees. In the event of controversy, claim or dispute relating to this MOU or breach thereof, the prevailing party in any judicial or arbitration proceeding shall be entitled to recover reasonable attorney fees and costs from the losing party.

Section 6 – Successors. This MOU shall not be transferred or assigned without prior written permission from RRFC.

Section 7 – No Guarantee. By entering into this MOU with RVCWD, RRFC does not and cannot guarantee that it will obtain approval of the LAFCo Application. RVCWD assumes all risk with respect to the LAFCo Application and any terms or conditions beyond the reasonable control of RRFC.

Section 8 – Termination. This MOU may be terminated by RRFC if, in RRFC’s judgment, it determines in its sole judgment to not pursue the LAFCo Application. RRFC will discuss possible termination with RVCWD before making a decision to terminate this MOU. If not otherwise terminated by RRFC, this MOU shall terminate upon approval of the LAFCo Application and the annexation of the RVCWD service area into the boundaries of RRFC. This MOU may be terminated by RVCWD upon ten (10) days written notice to RRFC, upon which RVCWD shall pay all invoices for outstanding Work completed.

Section 9 – Notice. Any notice or communication required or permitted hereunder shall be in writing and shall be delivered personally, delivered by nationally recognized overnight courier service or sent by certified or registered mail, postage prepaid, or (if an email address is provided) sent by electronic transmission (subject to confirmation of such electronic transmission). Any such notice or communication shall be deemed to have been given (i) when delivered, if personally delivered, (ii) with the day received from a nationally recognized overnight courier service, if sent by nationally recognized overnight courier service, (iii) the day of sending, if sent by email before 5:00 p.m. (PT) on any Business Day or the next succeeding Business Day if sent by email after 5:00 p.m. (PT) on any Business Day or on any day other than a Business Day or (iv) five (5) Business Days after the date of mailing, if mailed by certified or registered mail, postage prepaid, in each case, to the following address or email address, or to such other address or addresses or email address or addresses as such Party may subsequently designate to the other Party by notice given hereunder:

To RRFC as follows:

Elizabeth Salomone, General Manager
P.O. Box 2104
Ukiah, California 95482
Email: districtmanager@rrfc.net
Phone: 707.462.5278

To RVCWD as follows:

Jared Walker, General Manager
151 Laws Avenue, Suite D
Ukiah, California 95482
Email: jwalker@willowc wd.org
Phone: 707.485.0679

“**Business Day**” means any day other than a Saturday, Sunday, or any other day on which banking institutions in the State of California are authorized by law or executive action to close.

Section 10 – Entire Agreement. This MOU constitutes the entire agreement and understanding between the Parties. This MOU supersedes all prior agreements or understandings between the Parties with respect to the LAFCo Application.

Section 11 – Amendment. This MOU may be amended in writing by the mutual consent of the Parties and approved by each respective Party’s governing board.

Section 12 – Confidentiality. The Parties possesses certain confidential and/or proprietary information that it proposes to disclose to the other party solely for the purposes of implementing this MOU, and all such disclosures are subject to the terms and conditions set forth below.

(a) For the purposes of this MOU, the term, “**Confidential Information,**” shall mean confidential and/or proprietary information under the ownership or control of one of the parties. The term, “Confidential Information,” expressly excludes information that:

- i. was in the public domain at the time it was disclosed or falls within the public domain, except through a breach of this MOU; or
- ii. is or becomes known by the Receiving Party or any of its associated companies from a source other than the Disclosing Party without breach of this MOU by the Receiving Party; or
- iii. was furnished to a third party by the Disclosing Party without restrictions on the third party’s rights similar to those contained in this MOU; or
- iv. to the extent that such disclosure shall be required by law by the Receiving Party, but only after the Disclosing Party has been notified in writing by the Receiving Party and has been provided a reasonable opportunity to take appropriate action to protect its legal interest in the Confidential Information.
- v. If only a portion of any Confidential Information falls within any one of the exceptions listed above, the remainder of such Confidential Information shall continue to be subject to this MOU.

(b) For the purposes of this MOU, the term, “**Disclosing Party,**” shall mean the party owning or controlling Confidential Information and making such Confidential Information available to the other party.

(c) For the purposes of this MOU, the term, “**Receiving Party,**” shall mean the party who receives Confidential Information from the Disclosing Party.

(d) All rights, title, and interest in Confidential Information disclosed pursuant to this MOU are reserved by the Disclosing Party, and the Receiving Party will not use such Confidential Information disclosed to it by the Disclosing Party to benefit itself or others, except for the limited purposes for which the Confidential Information is disclosed within the context of this MOU. The Receiving Party will not disclose such Confidential Information to any third party unless and until expressly authorized in writing to do so by the Disclosing Party.

(e) The Receiving Party shall exercise at least the same standard of care to prevent the disclosure or misuse of the Confidential Information as it exercises to prevent the disclosure or misuse of its own Confidential Information, but in no event shall the Receiving Party exercise less than reasonable care [for example, the Receiving Party could ensure data are protected by locking spreadsheets with a password]. The Receiving Party shall limit dissemination of such Confidential Information to those persons within its organization who have a need to know such information to fulfill the purpose of this MOU and who agree to be subject to the restrictions of this MOU. Both Parties agree not to disclose the fact or content of any negotiations between them to third parties (other than outside counsel and consultants hired for purposes of fulfilling this MOU) without the written consent of the other Party.

Section 13 – Counterparts and Electronic Signatures. This MOU may be executed in two or more counterparts and, when so executed, shall have the same force and effect as though all signatures appeared in one document. This MOU and any other transaction document, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine, portable document format or other electronic transmission (including any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com), will be treated in all manner and respects as an original contract and will be considered to have the same binding legal effects as if it were the original signed version thereof delivered in person. Any such signature page will be effective as a counterpart signature page hereto without regard to page, document or version numbers or other identifying information thereon, which are for convenience of reference only.

**MENDOCINO COUNTY RUSSIAN RIVER
FLOOD CONTROL AND WATER
CONSERVATION IMPROVEMENT
DISTRICT**

**REDWOOD VALLEY COUNTY
WATER DISTRICT**

By: _____
Christopher Watt
Board President

By: _____
Adam Gaska
Board President

Date: _____

Date: _____