
JOINT EXERCISE OF POWERS AGREEMENT

by and among

CITY OF CLEARLAKE,

CITY OF LAKEPORT,

and

COUNTY OF LAKE

creating the

LAKE COUNTY RECREATION AGENCY

Dated as of March 1, 2023

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JOINT EXERCISE OF POWERS AGREEMENT

THIS AGREEMENT, dated as of March 1, 2023, initially by and among the CITY OF CLEARLAKE, a general law city and municipal corporation organized and existing under and by virtue of the laws of the State of California (“Clearlake”), the CITY OF LAKEPORT, a general law city and municipal corporation organized and existing under and by virtue of the laws of the State of California (“Lakeport”), and the COUNTY OF LAKE, a general law county organized and existing under and by virtue of the laws of the State of California (the “County” and together with Clearlake and Lakeport, the initial “Members”).

DECLARATION OF PURPOSE

A. The Joint Exercise of Powers Act, being Articles 1 through 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, Section 6500 et seq. (the “Act”) authorizes the Members to create a joint exercise of powers authority which has the power to exercise any powers common to the Members and to exercise additional powers granted to it under the Act. This Agreement creates such an agency, which shall be known as the “Lake County Recreation Agency,” for the purposes, and to exercise the powers, described herein.

B. The Members are authorized by the California Government Code and other laws of the State to buy, sell, lease and use property, and to incur indebtedness, for public purposes.

C. The Marks-Roos Local Bond Pooling Act of 1985, being Article 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code, Section 6584 et seq. (the “Mark-Roos Act”) authorizes and empowers the Authority to issue bonds and to purchase bonds issued by, or to make loans to, local agencies such as the Members for financing public capital improvements, working capital, liability and other insurance needs or other projects whenever there are significant public benefits. The Marks-Roos Act further authorizes and empowers the Authority to sell bonds so issued or purchased to public or private purchasers at public or negotiated sale.

TERMS OF AGREEMENT

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall for all purposes of this Agreement have the meanings herein specified.

“*Act*” means the Joint Exercise of Powers Act, being Articles 1 through 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code (Section 6500 et seq.), as amended.

“*Agreement*” means this Joint Exercise of Powers Agreement, as it may be amended from time to time, creating the Authority.

“*Authority*” means the Lake County Recreation Agency.

“*Board*” means the Board of Directors of the Authority.

“*Brown Act*” means the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the California Government Code), or any successor legislation hereafter enacted.

“*Indenture*” means each indenture, trust agreement, fiscal agent agreement, lease, sublease, loan agreement, or other instrument pursuant to which Obligations are issued or incurred.

“*Mark-Roos Act*” means the Marks-Roos Local Bond Pooling Act of 1985, being Article 4 of Chapter 5 of Division 7 of Title 1 of the California Government Code (Section 6584 et seq.), as amended.

“*Member*” or “*Members*” means the members of the Authority from time to time as may be modified in accordance with this Agreement, initially consisting of Clearlake, Lakeport and the County.

“*Obligations*” means bonds, notes, obligations, agreements and evidence of indebtedness of the Authority authorized and issued pursuant to the Act.

“*State*” means the State of California.

Section 2. Purpose. The purpose of the Authority is to issue bonds or incur other Obligations to finance and refinance capital improvement projects or working capital needed for recreational facilities located anywhere in the County, and operating and maintaining said recreational facilities. The foregoing purpose is intended to be accomplished by placing a revenue measure before the voters in Clearlake, Lakeport and the unincorporated County at the earliest feasible opportunity. The Authority may also enter into contracts with its Members, other local agencies (such as school districts), and private parties to carry out its purposes.

Section 3. Term. This Agreement shall become effective as of the date hereof and shall continue in full force and effect until terminated by the Members; *provided, however*, that in no event shall this Agreement terminate while any Obligations of the Authority remain outstanding under the terms of any Indenture or other instrument pursuant to which such Obligations are issued or incurred.

Section 4. The Authority.

(a) Creation of the Authority. There is hereby created pursuant to the Act an authority and public entity to be known as the “Lake County Recreation Agency.” As provided in the Act, the Authority shall be a public entity separate from the Members. The debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the Members.

Within 30 days after the effective date of this Agreement or any amendment hereto, the Authority will cause a notice of this Agreement or amendment to be prepared and filed with the office of the Secretary of State in the manner set forth in sections 6503.5 of the Act. Such notice shall also be filed with the office of the Controller of the State, and with the Lake County Local Agency Formation Commission (LAFCO) pursuant to sections 6503.6 and 6503.8 of the Act.

In addition, as required by Section 53051 of the California Government Code, within 70 days after the effective date of this Agreement, the Authority shall file with the Secretary of State on a form prescribed by the Secretary of State and also with the county clerk of the County, a statement of the following facts: (1) the full, legal name of the Authority, (2) the official mailing address of the Board, (3) the name and residence or business address of each member of the Board, and (4) the name, title, and residence or business address of the Chair and Secretary of the Authority, and within 10 days after any change in the facts required to be stated pursuant to

the foregoing, an amended statement containing such information shall be filed with the Secretary of State on a form prescribed by the Secretary of State and also with the county clerk of the County.

(b) Board of Directors. The Authority shall be administered by the Board, which shall consist of seven members, determined as follows: (i) two persons appointed by each Member, both of whom shall be members of the legislative body of the applicable Member, and (ii) one person, who shall be a resident of the County, appointed by the other Board members. Each Member shall also appoint an alternate (who shall be a member of the legislative body of the applicable Member), and such alternate shall attend the Board meetings as a Board member in case of an absence of one of the two persons appointed by the applicable Member to the Board.

With respect to the six persons appointed by the Members to the Board, each such person shall serve on the Board until his or her resignation, or a replacement is selected by the Member that appointed him/her; *provided, however*, that the term of any such Board member shall automatically terminate upon the withdrawal of the Member that appointed such person. With respect to the member of the public appointed to the Board, such person shall serve until his or her resignation or a replacement is selected by the Board.

Members of the Board shall not receive any compensation for serving as such, but shall be entitled to reimbursement for any expenses actually incurred in connection with serving as a member, if the Board determines that such expenses shall be reimbursed and there are unencumbered funds available for such purpose.

(c) Meetings of the Board.

(1) Time and Place. The Board shall hold at least one regular meeting each calendar year, with the date, hour and place of regular meetings to be fixed in the Authority's bylaws or by resolution of the Board. The Board may also hold special meetings. If the Secretary does not post an agenda for a regular meeting pursuant to the Brown Act, then such failure to post shall be deemed to be a determination by the Chair that no items required discussion and, therefore, that the regular meeting has been cancelled, except as otherwise provided in the Brown Act.

(2) Brown Act Compliance. All regular and special meetings of the Board shall be called, noticed, held and conducted subject to the provisions of the Brown Act.

(3) Minutes. The Secretary of the Authority shall cause minutes of all meetings of the Board to be kept and shall, as soon as practicable after each meeting, cause a copy of the minutes to be forwarded to each member of the Board.

(4) Quorum. A majority of the members of the Board shall constitute a quorum for the transaction of business. No action may be taken by the Board unless a quorum is present (according to State law) and there is an affirmative vote by a majority of the members of the Board, except that less than a quorum may adjourn the meeting from time to time.

(d) Officers; Duties; Bonds.

(1) The officers of the Authority shall be the Chair, Vice Chair, Secretary and Treasurer. The Chair and Vice Chair shall be members of the Board, and the Secretary

may be a member of the Board. The officers shall perform the duties normal to their respective offices and such other duties as may be prescribed by the Authority's bylaws. In addition, the officers shall have such additional powers and duties as may be determined by the Board from time to time by resolution. Unless otherwise specified in the Bylaws, each officer shall be appointed by vote of the Board.

(2) Pursuant to Section 6505.6 of the Act, the Treasurer of the Authority is designated as the public officer or person who has charge of, handles, or has access to any property of the Authority, and such officer shall file an official bond in the amount of \$25,000 as required by section 6505.1 of the Act; *provided, however*, that such bond shall not be required if the Authority does not possess or own property or funds with an aggregate value of greater than \$500 (excluding amounts held by a trustee or other fiduciary in connection with any Bonds). The cost of the bond, if necessary, shall be paid by the Authority.

(3) So long as required by section 6505 and section 6505.5 of the Act, the Treasurer of the Authority shall prepare or cause to be prepared: (a) a special audit as required pursuant to section 6505 of the Act every year during the term of this Agreement; and (b) a report in writing on the first day of July, October, January and April of each year to the Board and the Members which report shall describe the amount of money held by the Treasurer of the Authority for the Board, the amount of receipts since the last such report, and the amount paid out since the last such report (which may exclude amounts held by a trustee or other fiduciary in connection with any Obligations to the extent that such trustee or other fiduciary provides regular reports covering such amounts).

(4) The services of the officers shall be without compensation by the Authority.

(5) The Board shall have the power to appoint such other officers and employees, including an Executive Director, as it may deem necessary and to retain legal counsel, consultants and accountants, which officers, employees, legal counsel, consultants and/or accountants may also work for any Member.

(6) All of the privileges and immunities from liability, exemptions from laws, ordinances and rules, all pension, relief, disability, worker's compensation and other benefits which apply to the activities of officers, agents or employees of the Members when performing their respective functions within the territorial limits of their respective Member, shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this Agreement.

(7) None of the officers, agents or employees, if any, directly employed by the Authority shall be deemed, by reason of their employment by the Authority, to be employed by any Member or, by reason of their employment by the Authority, to be subject to any of the requirements of any Member.

(8) The Members hereby confirm their intent and agree that, as provided in Section 4(a) hereof and in the Act, the debts, liabilities and obligations of the Authority shall not constitute debts, liabilities or obligations of the Members, notwithstanding that any officers, employees or others may serve any Member and the Authority at the same time.

(9) The Authority shall cause all records regarding the Authority's formation, existence, operations, any Obligations issued or incurred by the Authority, obligations incurred by it and proceedings pertaining to its termination to be retained for at least six years following termination of the Authority or final payment of any Obligations issued or incurred by the Authority, whichever is later.

(10) In accordance with Section 6506 of the Act, one or more of the Members may agree to provide all or a portion of the services to the other members in the manner provided in the Agreement, and the members may provide for the mutual exchange of services without payment of any consideration other than such services.

Section 5. Powers. The Authority shall have any and all powers which are common powers of the Members, and the powers separately conferred by law upon the Authority. All such powers, whether common to the Parties or separately conferred by law upon the Authority, are hereby expressly specified as powers of the Authority except any such powers which are specifically prohibited to the Authority by applicable law. Except as otherwise set forth herein as permitted by law, the Authority's exercise of its powers is subject to the restrictions upon the manner of exercising the powers of the County.

The Authority is hereby authorized, in its own name, to do all acts necessary or convenient for the exercise of its powers, including, but not limited to, any or all of the following: to sue and be sued; to make and enter into contracts; to employ agents, consultants, attorneys, accountants, and employees; to acquire, hold or dispose of property, whether real or personal, tangible or intangible, wherever located; to levy taxes, assessments and fees, including but not limited to transactions and use taxes under the Transactions and Use Tax Law (Revenue and Taxation Code Section 7251 et seq.) and special taxes under the Mello-Roos Community Facilities Act of 1982 (Government Code Section 53311 et seq.); to issue bonds or otherwise incur debts, liabilities or Obligations to the extent authorized by the Act or any other applicable provision of law and to pledge any property or revenues or the rights thereto as security for such Obligations. In addition, the Authority shall have such additional powers conferred under the Act or under applicable law, insofar as such additional powers may be necessary or desirable to accomplish the purposes set forth in this Agreement.

Notwithstanding anything to the contrary in this Agreement, the Authority shall not have the power or the authority to enter into any retirement contract with any public retirement system (as defined in Section 6508.1(b) of the California Government Code) without the prior written consent of the Members. The provision in this paragraph is intended to benefit the Members and to be a confirming irrevocable obligation of the Authority which may be enforced by the Members, individually or collectively.

Section 6. Termination of Powers. The Authority shall continue to exercise the powers herein conferred upon it until the termination of this Agreement in accordance with Section 3 hereof.

Section 7. Fiscal Year. Unless and until changed by the Authority's bylaws or resolution of the Board, the fiscal year of the Authority shall be the period from July 1 of each year to and including the following June 30, except for the first fiscal year which shall be the period from the date of this Agreement to June 30, 2023.

Section 8. Disposition of Assets. Upon termination of this Agreement pursuant to Section 3 hereof, any surplus money in possession of the Authority or on deposit in any fund or account

of the Authority shall be returned in proportion to any contributions made as required by section 6512 of the Act. The Board is vested with all powers of the Authority for the purpose of concluding and dissolving the business affairs of the Authority. After rescission or termination of this Agreement pursuant to Section 3 hereof, all property of the Authority, both real and personal, shall be distributed to the Members in proportion to contributions made by the Members, except to the extent otherwise agreed by the Members.

Section 9. Contributions and Advances. Contributions or advances of public funds and of personnel, equipment or property may be made to the Authority by the Members for any of the purposes of this Agreement. Payment of public funds may be made to defray the cost of any such contribution. Any such advance made in respect of a revenue-producing facility shall be made subject to repayment, and shall be repaid, in the manner agreed upon by the Members, and the Authority at the time of make such advance as provided by Section 6512.1 of the Act. It is mutually understood and agreed that no Member has any obligation to make advances or contributions to the Authority to provide for the costs and expenses of administration of the Authority, even though any Member may do so. The Members may allow the use of personnel, equipment or property in lieu of other contributions or advances to the Authority.

Section 10. Obligations.

(a) Authority to Issue or Incur Obligations. When authorized by the Act or other applicable provisions of law and by resolution of the Board, the Authority may issue or incur Obligations for the purpose of raising funds for the exercise of any of its powers or to otherwise carry out its purposes under this Agreement. Said Obligations shall have such terms and conditions as may be authorized by the Board.

(b) Limited Obligations. The Obligations, including the principal and any purchase price thereof, and the interest and premium, if any, thereon, shall be special obligations of the Authority payable solely from, and secured solely by, the revenues, funds and other assets pledged therefor under the applicable Indenture(s) and shall not constitute a charge against the general credit of the Authority or any Member. The Obligations shall not be secured by a legal or equitable pledge of, or lien or charge upon or security interest in, any property of the Authority or any of its income or receipts except the property, income and receipts pledged therefor under the applicable Indenture(s). The Obligations shall not constitute a debt, liability or obligation of the State or any public agency thereof, including any Member, other than the special obligation of the Authority as described above.

No covenant or agreement contained in any Obligation or Indenture shall be deemed to be a covenant or agreement of any director, officer, agent or employee of the Authority or any Member, in his or her individual capacity and no director or officer of the Authority executing a Obligation shall be liable personally on such Obligation or be subject to any personal liability or accountability by reason of the issuance of such Obligation.

Section 11. Agreement not Exclusive. This Agreement shall not be exclusive and shall not be deemed to amend or alter the terms of other agreements between or among the Members, except as the terms of this Agreement shall conflict therewith, in which case the terms of this Agreement shall prevail.

Section 12. Accounts and Reports. The following provisions shall apply to the Authority and the Members, except to the extent otherwise prescribed in the Authority's bylaws:

(a) Books and Records. All funds of the Authority shall be strictly accounted for in books of account and financial records maintained by the Authority, including a report of all receipts and disbursements. The Authority shall establish and maintain such funds and accounts as may be required by generally accepted accounting principles and by each Indenture for outstanding Obligations (to the extent such duties are not assigned to a trustee or fiscal agent for owners of Obligations). The books and records of the Authority shall be open to inspection at all reasonable times by the Members and their representatives.

(b) Indentures. The Authority shall require that each Indenture provide that the trustee appointed thereunder shall establish suitable funds, furnish financial reports and provide suitable accounting procedures to carry out the provisions of such Indenture. Said trustee may be given such duties in said Indenture as may be desirable to carry out the requirements of this Section 12.

(c) Audits. The Treasurer of the Authority shall cause an independent audit to be made of the books of accounts and financial records of the Authority in compliance with the requirements of the Act. Any costs of the audit, including contracts with, or employment of, certified public accountants or public accountants in making an audit pursuant to this Section 12, shall be borne by the Authority and shall be a charge against any unencumbered funds of the Authority available for that purpose.

(d) Audit Reports. The Treasurer of the Authority, as soon as practicable after the close of each Fiscal Year but in any event within the time necessary to comply with the requirements of the Act shall file a report of the audit performed pursuant to this Section 12 as required by the Act and shall send a copy of such report to public entities and persons in accordance with the requirements of the Act.

Section 13. Funds. Subject to the provisions of each Indenture for outstanding Obligations providing for a trustee or fiscal agent to receive, have custody of and disburse funds which constitute Authority funds, the Treasurer of the Authority shall receive, have the custody of and disburse Authority funds pursuant to accounting procedures approved by the Board and shall make the disbursements required by this Agreement or otherwise necessary to carry out the provisions and purposes of this Agreement.

Section 14. Conflict of Interest Code. The Authority shall, by resolution, adopt a Conflict of Interest Code to the extent required by law. Such Conflict of Interest Code may be the conflict of interest code of the County or any other Member.

Section 15. Bylaws. The Board shall adopt bylaws for the Authority, not inconsistent with any provisions of this Agreement, which bylaws shall include provisions regarding the following: (a) conduct of Board meetings, (b) appointment and scope of authority of officers of the Authority, and (c) provisions regarding annual budgets and audits, insurance, and inspections.

Section 16. Breach. If default shall be made by any Member in any covenant contained in this Agreement, such default shall not excuse any other Member from fulfilling its obligations under this Agreement. The Members hereby declare that this Agreement is entered into for the benefit of the Authority created hereby and the Members hereby grant to the Authority the right to enforce by whatever lawful means the Authority deems appropriate all of the obligations of the

Members hereunder. Each and all of the remedies given to the Authority hereunder or by any law now or hereafter enacted are cumulative and the exercise of one right or remedy shall not impair the right of the Authority to any or all other remedies.

Section 17. Withdrawals and Additions of Members.

(a) Withdrawals. Any Member may withdraw from the Authority by filing with the Board not less than 6 months prior to the effective withdrawal date specified therein a certified copy of a resolution of the governing body of the Member expressing its desire to so withdraw, whereupon the withdrawing Member shall no longer be considered a Member for any reason or purpose under the Agreement and its rights and obligations under the Agreement shall terminate, so long as such withdrawal does not affect the existence of the Authority. Subject to the foregoing, the withdrawal of a single Member shall not affect the existence of the Authority nor the effectiveness of any Obligations.

(b) Additional Members. Any public agency (as defined in Section 6500 of the Act) may request to be added as a party to this Agreement, and become a Member, by filing with the Board a certified copy of a resolution of the governing body of such public agency whereby it agrees to the provisions of this Agreement, and requests to become a Member. The Board may accept or reject any such proposal in its sole discretion, and if accepted, such public agency shall become a Member when its admission is approved by a vote of a majority of the members of the Board, and subject to any conditions set forth therein. Upon satisfaction of the foregoing provisions, such public agency shall be a Member for all purposes of the Agreement. Unless otherwise approved by the governing body of each then-current Member, the effectiveness of such membership shall not constitute an amendment or modification of the Agreement.

Section 18. Effectiveness. This Agreement shall become effective and be in full force and effect and a legal, valid and binding obligation of each Member, when each such Member has executed a counterpart of this Agreement.

Section 19. Severability. Should any part, term, or provision of this Agreement be decided by the courts to be illegal or in conflict with any law of the State, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining parts, terms or provisions hereof shall not be affected thereby.

Section 20. Successors; Assignment. This Agreement shall be binding upon and shall inure to the benefit of the successors of the parties. Except to the extent expressly provided herein, neither party may assign any right or obligation hereunder without the consent of the other.

Section 21. Amendment of Agreement. This Agreement may be amended by supplemental agreement executed by the Members at any time; *provided, however,* that this Agreement may be terminated only in accordance with Section 3 hereof; *provided, further, however,* that such supplemental agreement shall be subject to any restrictions contained in any Obligations or documents related to any Obligations to which the Authority is a party.

Section 22. Form of Approvals. Whenever an approval is required in this Agreement, unless the context specifies otherwise, it shall be given, in the case of a Member(s), by resolution duly adopted by the governing body of the applicable Member(s), and, in the case of the Authority, by resolution duly adopted by the Board. Whenever in this Agreement any consent or approval is required, the same shall not be unreasonably withheld.

Section 23. Waiver of Personal Liability. No Member, officer, employee, attorney, agent, city councilmember, or member of the County board of supervisors shall be individually or personally liable for any claims, losses, damages, costs, injury and liability of any kind, nature or description arising from the actions of the Authority or the actions undertaken pursuant to this Agreement, and the Authority shall defend such Members, officers, employees, attorneys, agents, city councilmembers, and members of the County board of supervisors against any such claims, losses, damages, costs, injury and liability to the fullest extent permitted by the law. Without limiting the generality of the foregoing, no Member, officer, employee, attorney, agent, city councilmember, or member of the County board of supervisors shall be personally liable on any Obligations or be subject to any personal liability or accountability by reason of the issuance of Obligations pursuant to the Act and this Agreement. To the full extent permitted by law, the Board shall provide for indemnification by the Authority of any person who is or was a member of the Board, or an officer, employee or other agent of the Authority, and who was or is a party or is threatened to be made a party to a proceeding by reason of the fact that such person is or was such a member of the Board, or an officer, employee or other agent of the Authority, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding, if such person acted in good faith and in the course and scope of his or her office, employment or agency. In the case of a criminal proceeding, the Board may provide for indemnification and defense of a member of the Board, or an officer, employee or other agent of the Authority to the extent permitted by law. The Authority shall acquire such insurance coverage as the Board deems is necessary and appropriate to protect the interests of the Authority and the Members.

Section 24. Notices. Notices to any Member hereunder shall be considered delivered if sent first-class postage prepaid mail or delivered by hand, to the following respective addresses, which address may be updated in writing by the applicable Member in writing to the other Members and the Authority:

City of Clearlake 14050 Olympic Drive Clearlake, CA 95422 Attn: City Manager	City of Lakeport 225 Park Street Lakeport, CA 95453 Attn: City Manager	County of Lake 255 N Forbes Street Lakeport, CA 95453 Attn: County Administrative Officer
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Section 25. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

Section 26. Miscellaneous.

(a) Counterparts. This Agreement may be executed in several counterparts, including via PDF or other electronic signature application, each of which counterpart shall be an original and all of which shall constitute but one and the same instrument.

(b) Official Actions. Where reference is made to duties to be performed for the Authority by a public official or employee, such duties may be performed by that person's duly authorized deputy or assistant.

(c) Interpretation. This Agreement is made in the State, under the Constitution and laws of the State and is to be construed as a contract made and to be performed in the State. This Agreement is the complete and exclusive statement of the agreement among the parties with respect to the subject matter hereof, which supersedes and merges all prior proposals,

understandings, and other agreements, whether oral, written, or implied in conduct, between the parties relating to the subject matter of this Agreement.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers or officials thereunto duly authorized.

CITY OF CLEARLAKE

By _____
Mayor

Attest:

City Clerk

CITY OF LAKEPORT

By _____
Mayor

Attest:

City Clerk

COUNTY OF LAKE

By _____
Chair of the Board of Supervisors

Attest:

Clerk of the Board of Supervisors