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OVERLYING (AGRICULTURAL) POOL COMMITTEE

RULES AND REGULATIONS

ARTICLE 1

GENERAL PROVISIONS

1.01 Title/Code. This document shall be known and may be referred to as the “Overlying (Agricultural) Pool Committee Rules and Regulations” adopted pursuant to Judgment entered in Chino Basin Municipal Water District v. City of Chino, et al., S.B. Sup. Ct. No. 164327, on January 27, 1978, (See also 2012 Restated Judgment). To provide convenience in operating under the Judgment certain procedural matters contained therein have been set forth in these rules and regulations, however, should a conflict arise between the Judgment and these rules and regulations the language of the Judgment shall in all cases prevail. Designations hereinafter to “See 2012 Restated Judgment” shall refer to verbatim quotations from the 2012 Restated Judgment; whereas “Based on 2012 Restated Judgment” shall refer to a paraphrase of the 2012 Restated Judgment language.

1.02 Definitions. Unless otherwise expressly indicated or compelled by their context, words, phrases, and references appearing herein shall have the same meanings as set forth in the Judgment, including the additional definitions as follows:

(a) Committee(s) – Any of the Pool Committees or the Watermaster Advisory Committee as the context may compel.

(b) Judgment – The judgment entered in Chino Basin Municipal Water District v. City of Chino, et al., San Bernardino Superior Court No. 164327.

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(c) Overlying (Agricultural) Pool – The pool consisting of the State of California and all overlying producers who produce water for other than industrial or commercial purposes.

(d) Overlying (Non-agricultural) Pool – The pool consisting of overlying producers who produce water for industrial or commercial purposes or who, at the request of Watermaster and with the consent of the Watermaster Advisory Committee, take substitute water in lieu of producing such ground water.

(e) Appropriative Pool – The pool consisting of owners of appropriative rights, as defined under the Judgment, and any person who produces water for other than overlying use.

1.03 Membership in Pool. The pool shall include all producers of water for overlying uses other than industrial or commercial purposes. The State of California and all producers listed in Exhibit “C” to the Judgment were the initial members of the pool. [Based on 2012 Restated Judgment, page 55, Section 1.]

1.04 Representation. The number of representatives on the Pool Committee shall be determined by a majority of the voting power of members of the Pool in attendance, in person or by proxy, at the annual Pool meeting. However, the Pool Committee shall not consist of less than nine (9) representatives selected at large by members of the Pool. Each member of the Pool Committee shall have one vote and shall serve for a one-year term. [Based on 2012 Restated Judgment, page 55, Section 4.]

1.05 Proxies. Every Overlying (Agricultural) Pool member shall vote either in person or by one or more persons authorized by a written proxy executed by such member and filed with the Watermaster. Any proxy duly executed continues in full force and effect until revoked by the person executing it, prior to the vote pursuant thereto, by a

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writing delivered to the Watermaster stating that the proxy is revoked or by a subsequent proxy executed by, or by attendance at the meeting and voting in person by, the member executing the proxy; provided, however, that no proxy shall be valid after the expiration of eleven (11) months from the date of its execution unless otherwise provided in the proxy. [Based on 2012 Restated Judgment, page 55, Section 2.]

1.06 Powers and Duties. The Pool Committee shall have the power and responsibility for developing policy recommendations for administration of its Pool and to adopt an annual budget. All actions and recommendations which require Watermaster implementation shall first be noticed to the other two Pools. If no objection is received in writing within thirty (30) days, such action or recommendation shall be transmitted directly to Watermaster for action. If any such objection is received, such action or recommendation shall be reported to the Watermaster Advisory Committee before being transmitted to Watermaster. [Based on 2012 Restated Judgment, page 18, Section 38(a).]

## ARTICLE 2

### PROCEDURES

2.01 Principal Office. The principal office of Pool shall be the Chino Basin Watermaster business office, located at 9641 San Bernardino Road, Rancho Cucamonga, California 91730; telephone number (909) 484-3888, or at such other location or locations as may be designated from time to time by amendment to these rules and regulations.

2.02 Minutes. The minutes of the meetings of the Pool shall be open to inspection and maintained at the Watermaster's office. [Based on 2012 Restated Judgment, page 17, Section 37(d).] Copies of such minutes may be obtained upon payment of the duplication costs thereof.

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2.03 Regular Meetings. The Pool Committee shall meet annually, at the beginning of each year, and at such other times and places as the Pool Committee may determine from time to time by resolution, for purpose of conducting the business of the pool and to make such recommendations as may be necessary to properly advise Watermaster. If the time designated for regular meetings shall fall on a legal holiday, the regular meeting shall be held instead on the next succeeding regular business day at the same time and place, or such other day, time and place as may designated.

2.04 Special Meetings. Special meetings may be called at any time by the Chairperson or by any three (3) members of the Pool Committee. [Based on 2012 Restated Judgment, page 17, Section 37(c).]

2.05 Adjournment. Any meeting may be adjourned to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. A copy of the order or notice of adjournment shall be conspicuously posted forthwith on or near the door of the place where the meeting was held. [Based on 2012 Restated Judgment, page 17, Section 37(e).]

2.06 Public Meetings. All meetings, whether regular or special, shall be open to be public.

2.07 Notice. Notices shall be given in writing to all Active Parties within the Pool and each such person who has requested notice in writing and shall specify the time and place of the meeting and the business to be transacted thereat. Delivery of such written notice may be made electronically as appropriate.

Delivery of notice shall be deemed made on the date personally given or within ninety-six (96) hours of deposit thereof in the United States mail, first class, postage

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prepaid, addressed to the designee and at the address in the latest designation filed by such person.

2.08 Quorum. A majority of the members of the Pool Committee shall constitute a quorum for the transaction of its affairs. [Based on 2012 Restated Judgment, page 16, Section 35.]

2.09 Voting. All voting at Pool Committee meetings shall be on the basis of one vote for each Committee member in attendance. [Based on 2012 Restated Judgment, page 55, Section 3.]

Any action or recommendation taken by the Pool Committee shall be transmitted to Watermaster in writing within five (5) days of such action, together with a report of any dissenting vote or opinion. [Based on 2012 Restated Judgment, page 16, Section 35.]

All actions may be adopted by voice vote, but upon demand of any member the roll shall be called and the ayes and noes recorded in the minutes of the proceedings.

2.10 Agenda. The priorities of business shall be as stated in the agenda for a particular meeting, subject, however, to matters of business which may arise on an urgency basis and require the immediate attention and action of the Pool Committee.

2.11 Pool Secretary. The secretary (or in the absence thereof any person so designated at said meeting), shall prepare and subscribe the minutes of each meeting and make available a copy thereof to the appropriate Active Parties and each person who has filed a request for copies of all minutes or notices in writing. The minutes shall constitute notice of all actions therein reported. [Based on 2012 Restated Judgment, page 17, Section 37(d).] Unless a reading of the minutes of meeting is ordered by a majority vote of its members, each such minutes may be approved without reading.

2.12 Rules of Order. Except as may be provided herein, the procedures for the

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conduct of any meeting shall be governed by the latest revised edition of Roberts' Rules of Order. However, such rules, adopted to expedite the transaction of the business in an orderly fashion, are deemed to be procedural only and the failure to strictly observe such rules shall not affect the jurisdiction or invalidate any action taken at a meeting that is otherwise held in conformity with law.

2.13 Compensation. In accordance with the practices established for the Pool in 2009, members of the Pool Committee shall be compensated for regular and special committee meetings of the Agricultural Pool, Appropriative Pool, Advisory Committee and Watermaster Board; and for subcommittees and workshops in the amount of one hundred twenty-five dollars (\$125.00) per meeting. Members may choose to waive compensation and will notify Watermaster accordingly.

2.14 Officers. Annually at the first meeting of each calendar year, members of the Pool Committee shall elect one of their members to serve as Chairperson and another to serve as Vice Chairperson. They shall also select a secretary, a treasurer and such assistant secretaries and treasurers as may be appropriate, any of whom may, but need not be members of the Pool Committee. All officers are to hold their respective offices subject to the vote of the majority voting power of the Pool Committee in attendance. [Based on 2012 Restated Judgment, pages 16-17, Section 37(a).]

The Chairperson shall preside over all meetings of the Pool Committee. In the event of the Chairperson's absence, inability, or disability, those duties shall be performed by the Vice Chairperson or, in the Vice Chairperson's absence, inability, or disability as well, by one of their members so appointed by majority vote as temporary Chairperson for that meeting. The secretary shall prepare and maintain minutes of the meetings of the Pool Committee, and forward the originals for filing with the

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Watermaster, within ten (10) days of each meeting.

2.15 Vacancy. Any vacancies of the Pool Committee shall be filled by a majority vote of the remaining members of the Pool Committee.

2.16 Advisory Committee Representatives. The number of representatives of the Pool Committee on the Watermaster Advisory Committee shall be as provided by resolution of the Pool Committee from time to time, but the number of said representatives shall at no time exceed ten (10) nor be less than three (3). The voting power of the pool on the Watermaster Advisory Committee shall be as apportioned by resolution of the Pool Committee from time to time, however, the voting power of the pool in toto shall be represented by the number of representatives attending any particular Watermaster Advisory committee meeting.

2.17 Assessment. All assessments and expenses of the Pool including those of the Agricultural Pool Committee shall be paid by the Appropriative Pool. This includes but is not limited to OBMP Assessments and assessments pursuant to Exhibit F of the Judgment (Overlying Agricultural Pool Pooling Plan). Except, however, in the event the total Agricultural Pool Production exceeds 414,000 acre-feet in any five consecutive year period as defined in the Judgment, the Pool shall be responsible for its replenishment obligation pursuant to Paragraph 45 of the Judgment. [Pursuant to Peace Agreement, page 36, Section 5.4(a).]<sup>1</sup>

2.18 Modification of Replenishment Assessment Formula. In the event that the Pool becomes responsible for its Replenishment obligation all such assessments in this Pool shall be in an amount uniformly applicable to all production in the pool during the

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<sup>1</sup> This paragraph is not in conformity with the Pooling Plan due to legal opposition by the Appropriative Pool, and members of the Appropriative Pool. See Watermaster August 6, 2020 Notice of Orders, "Orders Re Denial of (Overlying) Agricultural Pool Motion to amend its Pooling Plan, Exhibit "F" to the Judgment."

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preceding year or calendar quarter. Provided, however, that the Pool Committee may recommend to the court modification of the method of assessing the Pool members inter se if necessary to obtain legitimate basin management objectives, including water conservation and avoidance of undesirable socio-economic consequences. Any such modification shall be initiated and ratified by one of the following methods:

(a) Excess Production. In the event total pool production exceeds 100,000 acre feet in any one year, the Pool Committee shall call and hold a meeting, after fourteen (14) days' notice to all Pool members, to consider remedial modification.

(b) Producer Petition. At any time after the fifth full year of operation under the Physical Solution, a petition of ten (10%) percent of the voting power or membership of the Pool shall compel the holding of a noticed meeting to consider modification.

In either event, a majority action of the voting power in attendance at such pool members' meeting shall be binding on the Pool Committee.

[Based on 2012 Restated Judgment, page 56, Section 7.]

2.19 Amendment. The Pool Committee may amend these rules and regulations from time to time, but not inconsistent with its pooling plan, by majority vote of the Committee in attendance at any meeting. [Based on 2012 Restated Judgment, page 56, Section 8.]