

**Amended and Restated Recycled Water Use Agreement between  
Sonoma Valley County Sanitation District and  
Mulas Dairy**

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This Agreement is between Sonoma Valley County Sanitation District (hereinafter referred to as "District") and Mulas Dairy (hereinafter "Recycled Water User"). The District is operated by the Sonoma County Water Agency (hereinafter "Sonoma Water") pursuant to Contract. Sonoma Water is a body corporate and politic of the State of California.

**RECITALS**

- A. Recycled Water User owns approximately six hundred eighty-seven (687) acres of real property identified as Assessor's Parcel No(s). 128-444-002, 128-471-001, 128-471-003, 128-471-004, 128-471-006, 128-471-007, 128-471-008, 128-471-014, 128-471-015, 135-011-003, 135-011-004, 135-012-002, and 135-031-002, located at (physical address) 2034 Fremont Drive, Sonoma, CA 95476 (hereinafter "Lands") as shown on Attachment A. Attachment A is hereby incorporated by reference. Approximately three hundred (300) acres of farmland (hereinafter "Farmland") will be irrigated with recycled water. Farmland consists of two hundred twelve (212) acres of pasture, ten (10) acres of greenhouse space, and seventy-eight (78) acres of vineyard.
- B. District owns and operates the District's wastewater treatment and disposal facilities (hereinafter "Facilities"), which generate and distribute tertiary-treated recycled water.
- C. Recycled water produced by the District meets or exceeds the state of California standards for tertiary-treated recycled water.
- D. District is willing to provide, and Recycled Water User is willing to accept, delivery of certain quantities of tertiary-treated recycled water for irrigation on all or portions of the Lands subject to the terms and conditions herein.
- E. The General Manager of Sonoma Water has been authorized by Board of Directors (hereinafter "Board") to enter into this Agreement.
- F. The parties have previously entered into that certain "Recycled Water Use Agreement between Sonoma Valley County Sanitation District and Mulas Dairy," recorded on October 26, 2020 with the Sonoma County Recorder's Office as document number 2020098396 (hereinafter "Prior Agreement"). The parties wish to amend certain terms of the Prior Agreement and replace them with the terms of this Agreement. Accordingly, the parties intend for this Agreement to terminate and supersede the Prior Agreement.

## AGREEMENT

District and Recycled Water User agree as follows:

### 1. RECITALS

A. The above recitals are true and correct.

### 2. LIST OF ATTACHMENTS

A. The following attachments are hereby incorporated into this Agreement:

1. Attachment A: Location Map
2. Attachment B: Recycled Water Use Requirements

### 3. TERM

A. The initial term of this Agreement is for a period commencing upon the date the agreement is signed by all parties and terminating on October 14, 2025. Following the initial term of this Agreement, it may be extended for a five (5) year term on no more than two (2) occurrences, upon Recycled Water User giving District written request to continue accepting the reclaimed water at least three hundred sixty (360) days prior to its termination date, and upon consent of District which consent shall not be unreasonably withheld.

### 4. RECYCLED WATER COMMITTED USE

- A. Annual obligation: Recycled Water User agrees to use and District agrees to deliver, subject to the conditions and limitations specified in this Agreement, a maximum of two hundred (200) acre-feet of recycled water each calendar year, hereinafter referred to as "Committed Use". It is understood that the Committed Use represents the *maximum obligation* of District. It is also understood that thirty (30) acre-feet of the Committed Use is assigned to Farmland identified as greenhouse space.
- B. Daily Use: During the Summer Season and other periods of high demand, District may reduce flow to Recycled Water User. District shall make requests to Recycled Water User no less than 24 hours before the required flow reduction. District reserves the right to make flow adjustments as necessary and for reasons listed under 5.D.
- C. Temporary requests for additional water above the Committed Use: Requests by either party to have Recycled Water User take additional recycled water on a temporary basis at any time during the year as defined in Paragraph 5 (Recycled Water Delivery) may be made and approved verbally by the Operations Coordinator or designee, and Recycled Water User, subject to the conditions and limitations specified in this Agreement.

### 5. RECYCLED WATER DELIVERY

- A. Location of water delivery: District will deliver recycled water from District's recycled water pipeline system turnouts to Recycled Water User at the turnout locations shown on Attachment A. District is not responsible for recycled water delivery or recycled water infrastructure past District's recycled water pipeline system turnout, with the exception of installed meters.
- B. Delivery period: Recycled Water User understands that the delivery periods for the recycled water are based on the seasons as identified in the table below.

Facility	Summer Season	Winter Season
District	May 1 to October 31	November 1 to April 30

- C. Coordination for water delivery: Recycled Water User shall coordinate with District’s Operations and Maintenance Division at (707) 523-1070 for all water delivery not in accordance with the Committed Use. District retains the right to implement a schedule for recycled water delivery among its users. Recycled Water User shall implement any such schedule upon written notification by the District.
- D. Limitations precluding delivery of recycled water: Notwithstanding the requirements for District to deliver recycled water as stated in this Agreement, both parties to this Agreement recognize and agree that such delivery of water may at times be precluded for unanticipated reasons or for reasons beyond the control of District. District will not be obligated to provide water when delivery is prevented by acts of God, shortage of recycled water, reduction in transmission capacity, malfunction of District’s Facilities, temporary imbalance of recycled water in the various storage ponds, changes in operations, discharge or monitoring requirements, a determination by any regulatory agency that recycled water is not suitable for the intended use, a determination that the activity is unlawful, a determination that the activity may violate any operations permits, including but not limited to any waste discharge requirements, National Pollutant Discharge Elimination System permits, and/or permits under state or regional authority issued to the District as these permits currently exist or may be revised in the future (hereinafter “Permits”), or a determination that a constituent of the recycled water is harmful to the plants being irrigated, or any unanticipated cause or cause outside the control of District.

**6. OTHER COOPERATING CUSTOMERS**

- A. Recycled Water User recognizes and understands that District is obligated to deliver recycled water to other cooperating recycled water customers. District will endeavor to supply recycled water to Recycled Water User so that the maximum amount can be used by Recycled Water User, and, in the event of shortage for any reason, to be equitable between Recycled Water User and all other cooperating recycled water customers, as reasonably determined by District in supplying recycled water. District intends that delivery of recycled water to the cooperating recycled water customers will have preference, when reasonably possible, over delivery to District-owned land. However, District cannot assure uninterrupted supply of recycled water to Recycled Water User.

**7. RECYCLED WATER QUALITY**

- A. The recycled water delivered to the Recycled Water User by District will be treated to tertiary level, and will generally be of quality in compliance with the District’s applicable Permits administered by the Regional Water Quality Control Board. District also maintains compliance with the current State Water Resources Control Board, Division of Drinking Water regulations. District will make available for informational purposes to Recycled Water User such test reports as are periodically required of District by regulatory agencies to characterize the recycled water. The results of these tests are maintained at the Sonoma Water Operations Office, and may be obtained by Recycled Water User requesting a copy in writing to Sonoma Water, 404 Aviation Blvd, Santa Rosa, California 95403. No warranty as to suitability of the recycled water for any particular use is given.

**8. RECYCLED WATER APPLICATION RESTRICTIONS**

- A. Recycled Water User agrees to irrigate in such a manner that is compatible with good irrigation practices on Recycled Water User's Lands, consistent with best management practices, runoff, ponding, and environmental restrictions specified in Attachment B to this Agreement or otherwise required pursuant to law, regulation or Permits.
- B. Recycled Water User shall not allow the recycled water to be used in violation of any law, regulation, ordinance, or provision of the Permits. Recycled Water User's attention is directed to the regulations contained in the California Code of Regulations, Title 22. Recycled Water User acknowledges that he or she has read Title 22 and is familiar with its content. Recycled Water User shall comply with the parts of said regulations that are pertinent to Recycled Water User's use of the recycled water. Current excerpts from the State Water Resources Control Board, Division of Drinking Water regulations, which may be applicable to Recycled Water User, and other requirements, are included in Attachment B for Recycled Water User's convenience only and should not be relied upon by Recycled Water User as a statement of current or future law.
- C. Recycled Water User agrees to notify District's Operations and Maintenance Section (707-523-1070) of Title 22 violations or damage to District Facilities within twenty-four (24) hours of discovery of such violation or damage. Recycled Water User shall be solely responsible for the cost of repair for damage occurring to District equipment as a result of Recycled Water User's activities.
- D. If Recycled Water User does not comply with laws, regulations, ordinances, or provisions of the Permits governing the use of recycled water, District may immediately suspend recycled water delivery, notify Recycled Water User of such infraction in writing, and, if Recycled Water User does not rectify the infraction within two (2) calendar days after notice, District may immediately terminate this Agreement.
- E. Recycled Water User agrees that recycled water can only be used on Lands identified in this Agreement and that recycled water cannot be sold to a third party.

**9. PERMISSION TO ENTER**

- A. Recycled Water User agrees to provide to Sonoma Water a right of access to the Lands for the purpose of operation, equipment maintenance, sampling, meter reading, and observation as needed.
- B. Recycled Water User agrees to allow Sonoma Water to install meters on Lands controlled by Recycled Water User and intended for recycled water distribution. In addition, Recycled Water User hereby grants Sonoma Water, acting through its duly authorized employees, agents, representatives, or contractors, reasonable access to Recycled Water User's Lands to do any necessary work associated with installation of equipment required by this Agreement or pursuant to the Permits, meter reading, verification of recycled water use, or any other monitoring of recycled water-related activity on said Lands. When entering Recycled Water User's Lands, Sonoma Water will interfere as little as possible with Recycled Water User's operations and usage of the Lands.
- C. Nothing in this Paragraph 9 (Permission To Enter) shall be construed to mean that Sonoma Water has any ownership interest or maintenance obligations for recycled water infrastructure beyond the turnouts identified in Exhibit A, other than installed meters.

**10. PAYMENT**

- A. The annual charge imposed by District for all recycled water used on Farmland, which is pasture and greenhouse space, will be \$0 per acre-foot. The annual charge imposed by

District for all recycled water used on Farmland, which is vineyard, will be \$33.50 per acre-foot. Because the vineyard is unmetered, the parties agree that District will bill Recycled Water User for 18 acre-feet of recycled water annually for vineyard application, and the remainder will be considered recycled water that has been applied to Recycled Water User's pasture or greenhouse space.

- B. The District will prepare an invoice for recycled water used by Recycled Water User on Farmland that is vineyard, pursuant to the terms of this Agreement, on a fiscal year annual basis (July 1 to June 30). Within thirty (30) days of receipt of an invoice, Recycled Water User shall pay District the sum of money due.
- C. On the date this Agreement was executed by the District, it was determined that the Farmland consisted of seventy-eight (78) acres of vineyard. Within thirty (30) days after the end of each fiscal year (June 30), Recycled Water User shall submit written and signed confirmation of current vineyard acreage. Vineyard charges for the future fiscal year will be based on acreage submitted by Recycled Water User. [Example: 78:18=100:23.]

#### **11. CHANGES TO AGREEMENT**

- A. Changes to the Agreement: Changes to the Agreement may be authorized by written amendments to this Agreement or by separate written agreements signed by the Chair of the District's Board. The parties expressly recognize that, except to the extent authorized herein, District personnel are without authorization to waive agreement terms.
- B. Verbal authorization: Requests for additional water, as referred to in Paragraph 4 (Recycled Water Committed Use), may be authorized verbally.
- C. Written amendments by General Manager: Permanent changes to the Committed Use may be authorized by written amendments to this Agreement signed by Recycled Water User and the General Manager of the Sonoma Water.
- D. Written amendments by Chair of District's Board of Directors: All other changes to the Agreement may be authorized only by written amendments to this Agreement, or by separate written agreements, signed by the Recycled Water User and Chair of the District's Board after amendment is recognized and approved by the District's Board. The parties expressly recognize that, except to the extent authorized herein, District personnel are without authorization to waive Agreement terms.

#### **12. ASSIGNMENT AND DELEGATION**

- A. No assignment of any interest of Recycled Water User in this Agreement shall be of any force or effect without the prior written consent of District.

#### **13. MUTUAL INDEMNIFICATION**

- A. Each party shall indemnify, defend, protect, hold harmless, and release the other, its officers, agents, and employees, from and against any and all claims, loss, proceedings, damages, causes of action, liability, costs, or expense (including attorneys' fees and witness costs) arising from or in connection with, or caused by any act, omission, or negligence of such indemnifying party. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages or compensation payable to or for the indemnifying party under worker's compensation acts, disability benefit acts, or other employee benefit acts.

**14. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS AND MAKING PAYMENTS**

All notices, bills, and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills, and payments sent by mail shall be addressed as follows:

District	Recycled Water User Contact
Sonoma Water, Recycled Water Administrator	Mulas Dairy, Ray Mulas
404 Aviation Boulevard	2034 Fremont Drive
Santa Rosa, CA 95403-9019	Sonoma, CA 95476
707-523-1070	707-695-8931

And when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid. In all other instances, notices, bills, and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills, and payments are to be given by giving notice pursuant to this paragraph.

**15. MISCELLANEOUS PROVISIONS**

- A. No Waiver of Breach: The waiver by District of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or provision or any subsequent breach of the same or any other term or promise contained in this Agreement.
- B. Construction: 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, 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.

Recycled Water User and District 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 the Agreement will not be construed against one party in favor of the other. Recycled Water User and District acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.

- C. Third Party Beneficiaries: Nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
- D. Captions: The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
- E. Merger: This writing is intended both as the final expression of the agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the agreement, pursuant to Code of Civil Procedure Section 1856. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.
- F. Time of Essence: Time is and shall be of the essence of this Agreement and every provision hereof.

**16. TERMINATION**

- A. Except as expressly set forth in Paragraph 8 (Recycled Water Application Restrictions) herein, should one party breach any of the terms and conditions in this Agreement, written notice of such breach shall be given to the other party. If the breach is not cured within twenty-one (21) calendar days of the breach, the other party may, in addition to any remedies provided by this Agreement or by law, terminate this Agreement on an additional fifteen (15) calendar day's written notice to the breaching party.

**17. RESTRICTIONS ON DISCHARGE INTO WATERS OF THE STATE**

- A. Recycled Water User understands and acknowledges that District is relying on good-faith performance of Recycled Water User to make use of recycled water during the Summer Season as defined in Paragraph 5 (Recycled Water Delivery) since District is not permitted to release it into the San Pablo Bay or its tributaries during that period of time. If Recycled Water User, as reasonably determined by District, fails to accept and make use of the recycled water as agreed upon herein, Recycled Water User and District agree that District will suffer irreparable harm and will not be adequately compensated by money damages for said harm. The parties to this Agreement agree that District may obtain an injunction compelling specific performance of this Agreement together with such other relief as may be allowed under this Agreement or by law.

**18. MEDIATION OF DISPUTES PRIOR TO ARBITRATION**

Except as provided in Paragraphs 8 (Recycled Water Application Restrictions), 16 (Termination), and 17 (Restrictions on Discharge into Waters of the State), if a dispute arises out of or relates to this Agreement, or an alleged breach of it, and if the dispute cannot be settled through negotiation, then before resorting to arbitration, the Recycled Water User and District agree first to try in good faith to settle the dispute by mediation. Costs for the mediation shall be borne equally by the parties, except costs for witnesses, preparation materials and evidence incurred by a party for its own benefit. If the parties cannot agree on a mediator or mediation rules to use the parties shall use the construction industry mediation procedures developed by the American Arbitration Association, with the following exceptions or terms in addition to those procedures:

- A. The mediation shall be conducted in Santa Rosa, California.
- B. Unless otherwise agreed in writing by the parties, the mediation shall be concluded no later than ninety (90) days after initiation of the mediation. At the end of the mediation period, any party may elect to initiate arbitration pursuant to Paragraph 19 (Arbitration) of this Agreement.
- C. The parties shall exchange all relevant non-privileged documents fifteen (15) days before the first mediation session.

Any mediation proceeding shall be confidential and shall not be admissible in a subsequent proceeding. If any party commences an arbitration or court action based on a dispute or claim to which this section applies without first attempting to resolve the matter through mediation, then the other party may apply to such arbitrator or judge for an order staying the arbitration or court action pending mediation.

**19. ARBITRATION**

Except as provided in Paragraphs 8 (Recycled Water Application Restrictions), 16 (Termination), and 17 (Restriction on Discharge into Waters of the State), any claims, disputes, or controversies arising out of or relating to this Agreement, or breach thereof, if not previously

resolved by negotiation or mediation pursuant to Paragraph 18 (Mediation of Disputes Prior to Arbitration) of this Agreement, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules (except as modified by A and B immediately below) and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof, provided, however, that:

- A. All arbitration proceedings shall take place in Santa Rosa, California.
- B. In order to expedite matters and limit costs consistent with the purposes of arbitration, the number of depositions and other discovery shall be appropriate to the amount in dispute and the complexity of the issues, and the arbitrator shall have express authority to limit the number of depositions and other discovery if the parties cannot agree. Written interrogatories will not be permitted. With these exceptions, Commercial Arbitration Rules regarding discovery shall apply.

**20. COUNTERPART**

This Agreement may be executed and acknowledged in any number of counterparts and each such counterpart shall for all purposes be deemed to be an original and all such counterparts shall together constitute but one and the same instrument.

**21. AMEDED AND RESTATED AGREEMENT**

This Agreement terminated, replaces, and supersedes the Prior Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as set forth below.

Reviewed as to funds by District:

\_\_\_\_\_  
Division Manager - Administrative Services

Reviewed as to form by County Counsel:

\_\_\_\_\_  
County Counsel

**Mulas Dairy**

Signature: \_\_\_\_\_

\_\_\_\_\_  
(Please print name here)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

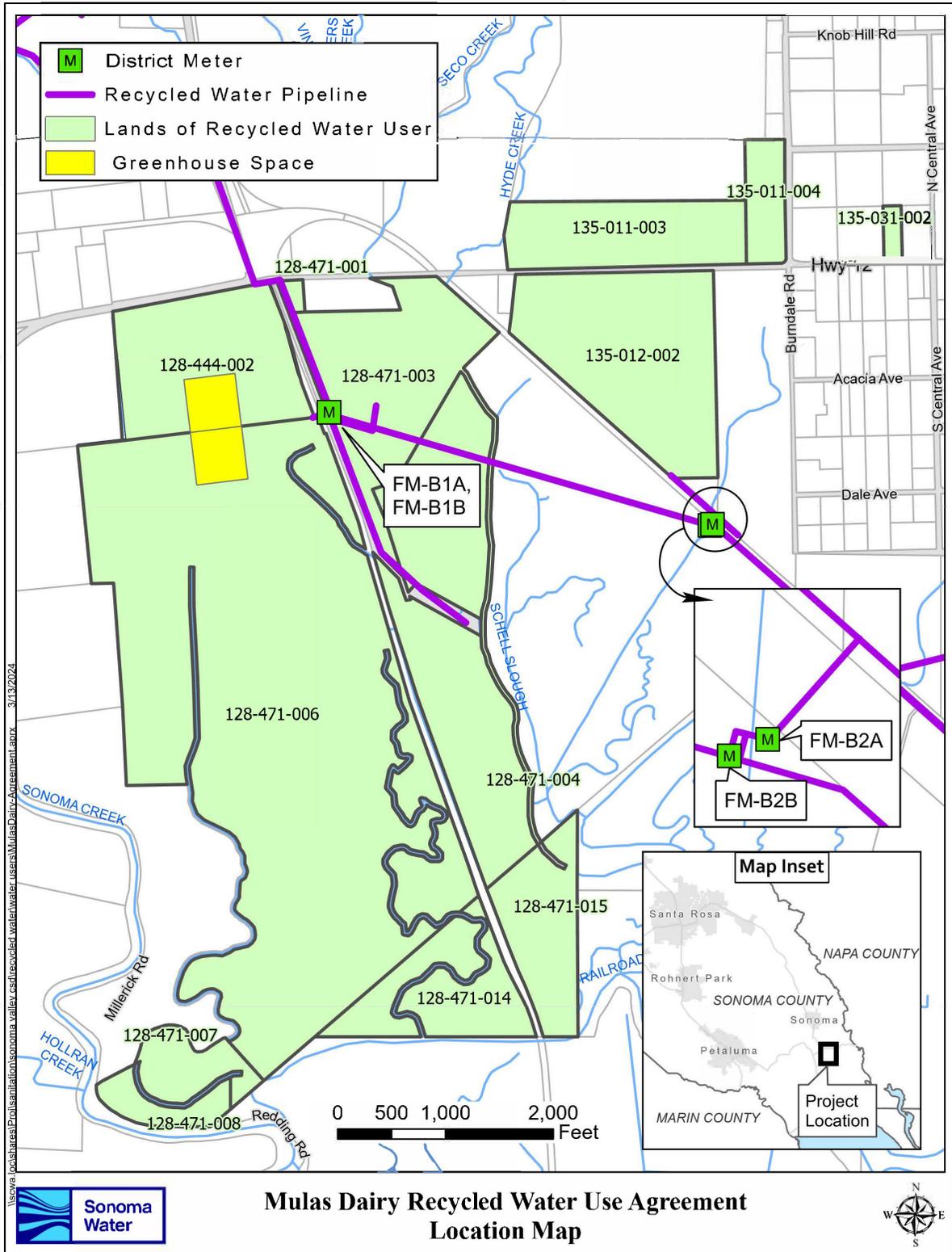
**Sonoma Valley County Sanitation District**

By: \_\_\_\_\_

Grant Davis, General Manager  
Authorized per Board Action on April 30,  
2024

Date: \_\_\_\_\_

# ATTACHMENT A LOCATION MAP



**Mulas Dairy Recycled Water Use Agreement  
Location Map**



## ATTACHMENT B RECYCLED WATER USE REQUIREMENTS

Recycled water produced at the Facilities by District generally meets the requirements for disinfected tertiary recycled water as defined by California Code of Regulations (CCR) Title 22, Division 4, and Chapter 3.

Irrigation with recycled water shall be performed in accordance with CCR Title 22 and the applicable National Pollutant Discharge Elimination System (NPDES) permit or other operating Permits. The treatment, storage, distribution, or reuse of recycled water shall not create a condition of pollution or nuisance as defined in Section 13050(m) of the California Water Code.

### **Irrigation Area Requirements**

Irrigation area requirements specified in CCR Title 22, Section 60310, which pertain to disinfected tertiary recycled water include, but are not limited to the following:

- No irrigation with disinfected tertiary recycled water shall take place within 50 feet of any domestic water supply well.
- Any use of recycled water shall comply with the following: (1) Any irrigation runoff shall be confined to the recycled water use area unless otherwise authorized by the regulatory agency; (2) Spray, mist, or runoff shall not enter a dwelling or a food handling facility; (3) Drinking water fountains and designated outdoor eating areas shall be protected against contact with recycled water spray, mist, or runoff.
- No spray irrigation of any recycled water, other than disinfected tertiary recycled water, shall take place within 100 feet of a residence or a place where public exposure could be similar to that of a park, playground, or schoolyard.
- All areas where recycled water is used and that are accessible to the public shall be posted with conspicuous signs, in a size no less than 4 inches high by 8 inches wide that include the following wording: "RECYCLED WATER - DO NOT DRINK". Each sign shall display an international symbol as found in Water Recycling Criteria, Figure 60310-A
- Except as allowed under Section 7604 of Title 17, no physical connection shall be made or allowed to exist between any recycled water system and any separate system conveying potable water.
- The recycled water system shall not include any hose bibs. Quick couplers that are different from that used on the potable water system may be used.
- Recycled water shall not be applied to irrigation areas during periods when uncontrolled runoff may occur.
- Recycled water shall be applied in such a manner so as not to exceed vegetative demand or field capacity.
- No impoundment of disinfected tertiary recycled water shall occur within 100 feet of any domestic water supply well.
- Areas irrigated with recycled water shall be managed to prevent ponding and conditions conducive to the proliferation of mosquitoes and other disease vectors, and to avoid creation of a public nuisance or health hazard. Irrigation water shall infiltrate completely within a 24-hour period.