

**MEMORANDUM OF UNDERSTANDING
SETTING FORTH CERTAIN ITEMS OF AGREEMENT
AMONG AGENCIES WITHIN THE MERCED GROUNDWATER SUBBASIN
FOLLOWING THE SUSTAINABLE GROUNDWATER MANAGEMENT ACT**

1. Parties

The Parties (“Parties”) to this *Memorandum of Understanding Setting Forth Certain Items of Agreement among agencies within the Merced Groundwater Subbasin Following the Sustainable Groundwater Management Act* (“Post-SGMA MOU”) include the following: Chowchilla Water District, City of Atwater, City of Livingston, City of Merced, County of Merced, East Merced Resource Conservation District, Le Grand Community Services District, Le Grand-Athlone Water District, Lone Tree Mutual Water Company, Merced Irrigation District, Merquin County Water District, Planada Community Services District, Stevinson Water District, Turner Island Water District, and Winton Water and Sanitary District. Each of the entities and districts named above may be referred to herein singularly as a Party, or collectively as the Parties.

2. Recitals

This MOU is entered into with regard to the following facts and circumstances:

- 2.1.** The Parties share common groundwater resources in that each of the Parties are located above the Merced Groundwater Subbasin (Subbasin), as defined by the Department of Water Resources (DWR) Bulletin 118, 2003 Update, and have managed those resources in the best interests of their respective constituents in compliance with applicable state laws.
- 2.2.** The enactment of the Sustainable Groundwater Management Act of 2014 (“SGMA”) will change many conditions and requirements under which groundwater resources are managed within the Subbasin.

- 2.3. One purpose of SGMA is to promote and encourage local control of groundwater management, provided that groundwater is managed in a sustainable manner.
- 2.4. SGMA requires certain deadlines be met by local agencies within the Subbasin. These deadlines must be met in order to avoid intervention of local groundwater management by the State Water Resources Control Board (“State Water Board”).
- 2.5. Relevant to the Parties, the first SGMA deadline requires the formation of at least one Groundwater Sustainability Agency (“GSA”) by June 30, 2017 in order to avoid the Subbasin being placed on probationary status (California Water Code §10735.2). To the extent that multiple GSA’s may be organized within the Subbasin, DWR will be informed of the formation of GSA(s) in order to assess the adequacy of coordination agreements. Absent the formation of GSA(s), SGMA allows the State Water Board to develop an enforceable interim plan to manage local groundwater resources.
- 2.6. SGMA also requires the adoption of a Groundwater Sustainability Plan (“GSP”), describing how the local GSA(s) plans to achieve groundwater sustainability within the Subbasin. A GSP for the Subbasin must be submitted and approved by DWR by January 31, 2020. The Subbasin must be covered by at least one GSP. If more than one GSP is established, a coordination agreement must be in place to ensure the coordinated implementation of the GSP(s) to achieve sustainability.

3. Agreement

The Parties agree as follows:

- 3.1. Cooperation:** The Parties agree to cooperate and work together in a civil and professional manner in an effort to move toward groundwater sustainability within the Subbasin and SGMA compliance during the term hereof.

3.2. Groundwater governance: While it is unknown at this time what governance structure will be agreed upon during the development of GSA(s), the Parties agree to work individually and collectively to seek formation of one or more GSA(s) to provide SGMA-compliant groundwater management governance within the Subbasin prior to June 30, 2017. The ultimate governance structure within the Subbasin is not the subject of this MOU. As such, this MOU does not form a GSA or multiple GSAs, but rather begins a consensus-seeking discussion process towards GSA(s) adoption and SGMA compliance.

3.3. MAGPI is a forum for discussion: The Parties intend that the meetings of the Merced Area Groundwater Pool Interests (MAGPI) may provide one of several forums to discuss possible groundwater governance structures. However, it is the Parties to this MOU (as defined in Water Code §10721(m)) that have ultimate decision-making authority on groundwater governance within the Subbasin.

3.4. Coordination: SGMA requires that the entire Subbasin be covered by one or more GSP(s). If more than one GSP is established, SGMA requires that a coordination agreement be established between the different GSA(s) and approved by DWR. The Parties understand and agree that continued coordination and collaboration will be essential to complying with SGMA requirements, therefore and regardless whether a single or multiple GSAs are formed covering the Subbasin, the parties agree to work together in cooperation to meet the requirements of SGMA.

3.5. Groundwater Sustainability Plan: To facilitate the coordination required by SGMA, the Parties agree to work individually and collectively to pursue developing a single GSP or coordinated GSPs to manage groundwater within the Subbasin.

3.6. Groundwater Model and Other Data Coordination: Development of a SGMA-compliant

GSP or coordinated GSPs for the Subbasin will likely require a groundwater model and/or other tools. The Parties agree to cooperatively support the development of a modeling tool or tools to satisfy SGMA and to serve the Parties in identifying and developing strategies to sustainably manage groundwater in the Subbasin. The Merced Water Resources Model (Model) is an integrated water resources model nearing completion for the Subbasin, and simulates the interactions between groundwater and surface water. The Model is funded jointly by the City of Merced, County of Merced, Merced Irrigation District, and DWR. The Merced Area Groundwater Pool Interest (MAGPI) member agencies oversee the development of the Model. While the Model may provide significant capabilities for SGMA compliance, there may be a need for additional features and refinements, or a need to develop or use other models to assist the Parties in developing a SGMA compliant GSP or GSPs. The Parties agree to cooperatively evaluate the Merced Water Resources Model and other existing tools that may be needed to support basin analysis needed for SGMA compliance.

3.7. No effect on water rights: The Parties agree that the creation of and participation in this MOU

does not create any right or authority over any other Party's own internal matters or resources whatsoever, including, but not limited to, each Party's right to exercise its sole discretion in managing its surface water supplies, conjunctively managed water supplies, groundwater supplies, facilities, operations, water management decisions including groundwater recharge activities, or water supply/conservation projects.

3.8. No replacement of existing MOU: The Parties do not intend for this MOU to replace or otherwise alter the existing MAGPI MOU, or any other agreement to which any party hereto may be party.

3.9. No creation of financial commitment: This MOU does not create, either expressly or by implication, any financial commitment of the Parties.

3.10. No creation of joint powers: This MOU is not intended to create a GSA(s) or any other agency or entity which is separate from the Parties pursuant to Chapter 5 (commencing with §6500) of Division 7 of Title 1 of the Government Code, relating to the joint exercise of powers.

3.11. Term: The Parties have entered into this MOU voluntarily. This MOU shall become effective upon signature by an authorized official from each one of the Parties. Any Party may withdraw from this MOU at any time upon providing written notice signed by an authorized official to the other Parties. Notwithstanding the withdrawal of a party to this MOU, this MOU will remain in effect with the remaining Parties unless such remaining Parties decide to terminate the MOU. Unless earlier terminated, this MOU shall expire upon approval by DWR of a GSP(s) that covers the Subbasin.

3.12. Good faith efforts: Each Party should use its best efforts and work wholeheartedly and in good faith for the expeditious completion of the objectives of this MOU and the satisfactory performance of the terms and provisions contained herein.

4. Counterparts:

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. This MOU may not be modified except by mutual consent of the authorized officials from the Parties.

IN WITNESS WHEREOF, the Parties have caused this MOU to be executed, each signatory hereto represents that he has been appropriately authorized to enter into this MOU on behalf of the Party for whom he/she signs.

{Signature page to follow}

APPROVED AS TO FORM:


KENNETH ROZELL
Senior Deputy City Attorney

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As authorized by motion of the City Council of the City of Merced, California on May 16, 2016.

Signed: _____
Steven S. Carrigan, City Manager

Attest: _____
John Tresidder, Assistant City Clerk