

**MEMORANDUM OF UNDERSTANDING
FOR COOPERATION AND COORDINATION
OF THE KAWEAH SUBBASIN**

THIS MEMORANDUM OF UNDERSTANDING (“Coordination MOU”) is entered into this 1st day of November, 2017, by and between the Mid-Kaweah Groundwater Sustainability Agency (“MKGSA”), Greater Kaweah Groundwater Sustainability Agency (“GKGSA”), and East Kaweah Groundwater Sustainability Agency (“EKGSA”) (individually also referred to as “Party” or “GSA” and collectively referred to as “Parties”).

RECITALS

WHEREAS, the Parties are all located within the Tulare Lake Hydrologic Region, San Joaquin Valley Groundwater Basin, Kaweah Subbasin, a groundwater Subbasin recognized by the California Department of Water Resources (“DWR”) Bulletin 118 (2003) as Groundwater Basin Number 5-22.11;

WHEREAS, the Sustainable Groundwater Management Act (“SGMA”) requires Groundwater Sustainability Agencies to develop and implement Groundwater Sustainability Plans (“GSP”) to achieve certain sustainability goals;

WHEREAS, SGMA allows local agencies or a combination of local agencies overlying a groundwater basin to serve as a GSA to develop and implement one or more GSPs;

WHEREAS, pursuant to Water Code §10727 a GSP may be any of the following: (1) A single GSP covering the entire basin developed and implemented by one GSA; (2) A single GSP covering the entire basin developed and implemented by multiple GSAs; or (3) Multiple GSPs implemented by multiple GSAs that are subject to a single Coordination Agreement that covers the entire basin.

WHEREAS, pursuant to Water Code §10727.6 and Code of Regulations §357.4, a Coordination Agreement must be prepared if multiple GSPs will be implemented within a basin which requires the Parties to ensure that the GSPs utilize the same data and methodologies within the basin for the following items: (a) groundwater elevation data; (b) groundwater extraction data; (c) surface water supply; (d) total water use; (e) change in groundwater storage; (f) water budget; and (g) sustainable yield;

WHEREAS, the Parties acknowledge that multiple GSAs were formed within the Kaweah Subbasin and the Parties presently intend to develop and implement multiple GSPs;

WHEREAS, the Parties acknowledge that the data analysis and other technical information required for a Coordination Agreement in the Kaweah Subbasin have not been completely collected and the Parties agree that under this Coordination MOU they will cooperate with the data collection and related efforts necessary for preparation of a Coordination Agreement;

WHEREAS, the purpose of this Coordination MOU is to provide for a cooperative means of gathering this information and establishing processes required for the preparation of a Coordination Agreement that will serve to coordinate development and implementation of multiple GSPs by the GSAs, and to provide a framework among the Parties to collectively manage the Kaweah Subbasin in accordance with the requirements of SGMA.

NOW, THEREFORE, it is mutually understood and agreed as follows:

SECTION 1: DEFINITIONS

- 1.1. “Kaweah Subbasin” or “Kaweah Basin” refers to that Subbasin identified and described in California Department of Water Resources California's Groundwater Bulletin 118 as part of the Tulare Lake Hydrologic Region, San Joaquin Valley Groundwater Basin, Kaweah Subbasin, also identified as Groundwater Basin Number 5-22.11 as delineated in **Exhibit A**.
- 1.2. “Groundwater Sustainability Plan” or “GSP” means a plan of a GSA proposed or adopted under SGMA as defined in Water Code § 10721(k).
- 1.3. “Coordination Agreement” shall be the agreement to ensure coordination of the data and methodologies used in all GSPs within the Kaweah Basin for the following assumptions: (a) groundwater elevation data; (b) groundwater extraction data; (c) surface water supply; (d) total water use; (e) change in groundwater storage; (f) water budget; (g) sustainable yield, all as mandated by SGMA and as defined by Water Code § 10727.6 and California Code of Regulations §357.4.
- 1.4. “SGMA” refers to the Sustainable Groundwater Management Act, codified at Part 2.74 of the California Water Code, and any related statutes and regulations.

SECTION 2: PURPOSE AND GOALS

- 2.1. The purpose of this Coordination MOU is to:
 - 2.1.1. Set forth the Parties mutual agreement to prepare and enter into a Coordination Agreement.
 - 2.1.2. Provide for the acquisition of the data and analyses required for the Coordination Agreement.
 - 2.1.3. Set forth a structure for communication and recommendation procedures between the Parties for preparation and finalization of a Coordination Agreement.

SECTION 3: CONSULTANT

- 3.1. *Consultant*. The Parties agree that it will be necessary for certain consultants to be engaged to prepare various data and technical analysis required for the Coordination

Agreement and possibly other Kaweah Subbasin SGMA compliance needs that the Parties deem valuable to handle collectively.

- 3.2. *Contracting.* The Parties agree that each GSA shall be a party to any agreement with a consultant for required work to be conducted in furtherance of the Coordination Agreement. The Parties agree further that the MKGSA shall be the fiscal administrator for purposes of billing, payment and related contract administration for any agreement the Parties enter into with a consultant for required work to be conducted in furtherance of the Coordination Agreement. The foregoing requirements shall in no way preclude any Party from retaining their own consultants to assist their GSA for purposes of complying with SGMA.

SECTION 4: COST SHARING

- 4.1. *Cost Sharing of Consultant.* The Parties agree to share equally in costs of any consultants retained for purposes of fulfilling any recommendations under this Agreement. The Parties understand that each individual GSA may retain the same consultants for GSA-specific work, and costs for consultant work only applicable to an individual GSA shall not be shared by the Parties collectively.
- 4.2. *Grant Funds.* The Parties entered into a Letter of Intent (“LOI”), which is incorporated by reference to this Coordination MOU and attached hereto as **Exhibit B**. The LOI outlines the cost sharing provisions agreed to for purposes of applying for Prop 1 Funding GSPs and other Projects, as well as the division of any potential awards, of which funds will go towards this Coordination Agreement and the Parties individual GSP preparation.
- 4.3. *Other Costs.* The Parties acknowledge that other costs may arise in the future to fulfill the terms of the Coordination Agreement and this Coordination MOU. All additional costs must be approved by each GSA, in a proportion to be decided at such time.

SECTION 5: COMMITTEES

- 5.1. *Formation of Joint-Committees.* The Parties agree that communication between the GSAs is necessary to accomplish the goals of this Coordination MOU. To that end, the Parties shall form the following joint-committees: the Management Team Committee and the Subbasin Technical Advisory Committee. All committee meetings shall be subject to the Ralph M. Brown Act, and the committees shall be responsible for determining an appropriate process to ensure compliance.
- 5.2. *Management Team Committee.*
 - 5.2.1. *Purpose and Responsibilities.* The Management Team shall make recommendations regarding the Coordination Agreement and other Kaweah Subbasin related SGMA related compliance issues to each GSA. The Management Team shall meet as necessary.

- 5.2.2. *Membership.* Each GSA shall appoint three (3) representatives to the Management Team Committee. Each GSA's respective representatives shall serve at the pleasure of his or her appointing GSA.
- 5.2.3. Each GSA will be entitled to one (1) vote on the Management Team Committee. The process for declaring such vote must be determined by each respective GSA. Recommendations to the GSAs shall be made by the Management Team Committee only upon the unanimous vote of the Management Team Committee. Should unanimity not be reached, the votes shall be reported to each GSA's Board of Directors for further direction.
- 5.3. *Subbasin Technical Advisory Committee.*
- 5.3.1. *Purpose and Responsibilities.* The Subbasin TAC shall make technical recommendations regarding the Coordination Agreement and other Kaweah Subbasin related SGMA compliance issues to the Management Team. The Subbasin TAC shall meet as necessary.
- 5.3.2. *Membership.* Each GSA shall appoint two (2) representatives to the Subbasin TAC. Each GSA's respective representatives shall serve at the pleasure of his or her appointing GSA.
- 5.4. *Adoption of Committee Recommendations.* Recommendations approved by unanimous consent of the Management Team Committee shall be reported to each GSA Board, with the process and manner for GSA approval left to the discretion of each GSA. If a GSA fails to approve a recommendation of the Management Team Committee, the Management Team Committee shall reconvene and endeavor to develop an alternative recommendation that may resolve any issues which resulted in the failure to approve. If the Management Team Committee is unable to develop an alternative recommendation, or if a GSA fails to approve the Management Team Committee's alternative recommendation, the Parties shall evaluate whether to enter into the dispute resolution process outlined in Section 5.6.
- 5.5. *Failure of Management Team Committee to Reach Consensus.* The Parties acknowledge that at times consensus may not be reached amongst the Management Team Committee. All matters in which consensus of the Management Team Committee cannot be reached shall be reported to the GSA Boards of Directors. The Management Team Committee shall reconvene after the unresolved issue has been reported to the GSA Boards of Directors. If the Management Team Committee is still unable to reach consensus, the Parties shall evaluate whether to enter into the dispute resolution process outlined in Section 5.6.
- 5.6. *Dispute Resolution.* Any GSA may choose to initiate a dispute resolution process by serving written notice to the remaining GSAs of the following: (1) identification of the conflict; (2) description of how the conflict may negatively impact the sustainability of the Kaweah Subbasin; and (3) a proposal for one or more resolutions. The Parties agree to designate representatives to meet and confer with each other within thirty (30) days of

the date such notice is given and said representatives shall then meet within a reasonable time to address all issues identified in the notice. Should the representatives be unable to reach a resolution within ninety (90) days of the written notice, the Parties shall enter into informal mediation in front of a mutually agreeable mediator.

SECTION 6: GENERAL PROVISIONS

- 6.1. *Term.* This Coordination MOU shall become effective on the date first written above and shall remain so until the Coordination Agreement becomes effective.
- 6.2. *Third Party Beneficiaries.* This MOU shall not create any right of interest in any non-Party or in any member of the public as a third party beneficiary.
- 6.3. *Construction and Interpretation.* This MOU was finalized through negotiations of the Parties. Each Party has had a full and fair opportunity to review and revise the terms herein. As a result, the normal rules of construction that any ambiguities are to be interpreted against the draft Party shall not apply in the construction or interpretation of this MOU.
- 6.4. *Good Faith.* Each Party shall use its best efforts and work in good faith for the expeditious completion of the purposes and goals of this Coordination MOU and the satisfactory performance of its terms.
- 6.5. *Execution.* This Coordination MOU may be executed in counterparts and the signed counterparts shall constitute a single instrument. The signatories to this Coordination MOU represent that they have the authority to sign this Coordination MOU and to bind the Party for whom they are signing.
- 6.6. *Amendment.* This MOU may be amended or modified in writing and executed by each of the Parties.
- 6.7. *Notices.* All notices, requests, demands or other communications required or permitted under this MOU shall be in writing unless provided otherwise in this MOU, and shall be deemed to have been duly given and received on: (i) the date of service if personally served or served by electronic mail or facsimile transmission on the Party to whom notice is to be given at the address(es) below; (ii) on the first day after mailing, if mailed by Federal Express, U.S. Express Mail, or other similar overnight courier service; or (iii) on the third day after mailing if mailed to the Party to whom notice is to be given by first class mail, registered certified as follows:

TO:
Paul Hendrix
Mid-Kaweah Groundwater Sustainability Agency
6826 Avenue 240
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