

MEMORANDUM OF UNDERSTANDING

between

THE MONTEREY COUNTY WATER RESOURCES AGENCY

and

THE MARINA COAST WATER DISTRICT GROUNDWATER SUSTAINABILITY
AGENCY

regarding

TECHNICAL AND PROFESSIONAL ASSISTANCE TO MARINA COAST WATER
DISTRICT GROUNDWATER SUSTAINABILITY AGENCY FOR THE DEVELOPMENT
OF A GROUNDWATER SUSTAINABILITY PLAN

WHEREAS, the Monterey County Water Resources Agency (“Agency”) is a flood control and water agency established in 1990 by special act of the state legislature codified at Water Code Appendix Chapter 52, and is the successor to the Monterey County Flood Control and Water Conservation District established in 1947, also by special act of the state legislature; and

WHEREAS, the Marina Coast Water District and MCWD Groundwater Sustainability Agency (“MCWD”) is a water district and groundwater sustainability agency within certain portions of the Salinas Valley Groundwater Basin (“Basin”) pursuant to the provisions of the “Sustainable Groundwater Management Act” (SGMA); and

WHEREAS, SGMA requires that for all basins designated as high- or medium-priority and subject to conditions of “critical overdraft”, a Groundwater Sustainability Plan (“GSP”) be developed and implemented by January 31, 2020; and

WHEREAS, the Basin includes two sub-basins that are high priority and in critical overdraft condition, requiring a GSP or GSP’s by January 31, 2020, all other sub-basins will require GSPs no later than January 31, 2022; and

WHEREAS, the MCWD is currently contemplating different structures for the preparation of one or more GSPs for the Basin, to be developed and submitted to the California Department of Water Resources no later than January 31, 2020; and

WHEREAS, it is the MCWD’s obligation to cause the development and implementation of the GSPs; and

WHEREAS, the MCWD desires to engage the Agency for its technical expertise and background information to appropriately develop and implement the GSPs; and

WHEREAS, it will be necessary for the MCWD to contract with a consultant (“GSP Consultant”), and receive other technical support to develop and implement the GSPs; and

WHEREAS, the Agency possesses the necessary technical expertise and background information to assist the MCWD and its GSP Consultant in preparation of the GSPs; and

WHEREAS, the Agency is prepared to assist the MCWD and its GSP Consultant in its obligation to develop and implement the GSPs; and

WHEREAS, because the Agency and the MCWD are separate and distinct public entities, it is necessary and appropriate for the Agency and the MCWD to enter into this Memorandum of Understanding (“MOU”) whereby the responsibilities of each with respect to the development and implementation of the GSPs are set forth, and the compensation to be paid to the Agency for its services is agreed upon.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the Agency and the MCWD agree as follows:

1. Effective Date and Term.

This MOU will be effective as of the date last signed by either of the parties, and unless earlier terminated as provided in this MOU, shall remain in effect until the approval of the GSPs by the California Department of Water Resources. This MOU may be amended from time-to-time by mutual written agreement of the parties.

2. Obligations of the Parties.

A. MCWD:

i. The MCWD will contract with the GSP Consultant to perform the development and implementation of the GSPs, and, except as may be specifically agreed to herein or otherwise in writing by the parties, the MCWD will be solely responsible for all costs and expenses associated with the development, approval, and implementation of the GSPs.

ii. The MCWD shall designate an officer or employee who shall oversee the Agency’s performance of its obligations under the MOU (the “GSA Representative”). The MCWD shall notify the Agency of the GSA Representative so designated, and may change such designation from time-to-time upon written notice to the Agency.

B. Agency:

i. The Agency shall provide to the MCWD those services and duties as described under this MOU and in Attachments A and B, as follows: non-specific technical and professional assistance to be provided by the Agency to the MCWD on an as-needed basis.

ii. The Agency shall assign an officer or employee to undertake the Agency's obligations pursuant to this MOU, who shall be designated the "WRA Representative". The MCWD must approve the assignment in writing, which approval shall not be unreasonably withheld. The Agency may change the designation from time-to-time with the MCWD's written approval, which approval shall not be unreasonably withheld. In the performance of duties under this MOU, the WRA Representative shall communicate and receive direction from the GSA Representative with respect to all aspects of the Agency's performance of duties hereunder.

iii. Except as specifically provided herein, this MOU does not address Agency implementation of specific elements of the GSPs as may be adopted by the MCWD.

3. Compensation.

The parties anticipate that the WRA Representative shall be an employee in the hydrologist or engineer class at the Agency. It is agreed by the parties that services may be provided pursuant to this MOU by others than the WRA Representative, but that such services shall also be rendered by Agency employees in the hydrologist or engineer class. The MCWD shall pay the Agency, as compensation for the services provided pursuant to this MOU, according to the rate schedule attached as Attachment B. The rate schedule in Attachment B may be amended annually by the Agency upon approval by the MCWD, which approval shall not be unreasonably withheld.

The parties anticipate that the initial budget for the Agency shall not exceed approximately Forty-Five Thousand Dollars (\$45,000) per fiscal year for the term of the contract; however, all services shall be billed to the MCWD on a time and materials basis as set forth in Attachment B. This amount will be prorated based on the date of execution of this MOU for the remainder of the current Fiscal Year (FY 2018/19), if appropriate. The parties shall revise the budget and amend this MOU as necessary to reflect additional fees and expenses required for services. Proposed increases must be approved by the MCWD before any increase charges or expenditures are incurred.

The Agency shall endeavor to provide services pursuant to this MOU in the most cost-effective and efficient manner.

Travel authorized by the MCWD will be reimbursed as follows: transportation at actual fare for economy or coach class, to be pre-approved by the Agency; vehicular travel, meals and lodging not to exceed the rates established by the County of Monterey's per diem unless authorized in advance. The MCWD will pay for the Agency's travel time if travel is required beyond the boundaries of the County of Monterey.

4. Claims and Payment.

Not later than ten (10) working days after the last day of each month, the Agency shall submit to the MCWD a claim, on a form or in a format approved by the MCWD, setting forth in detail the time and expense items incurred by the Agency during the previous month, for which payment is sought, and setting forth such other information pertinent to the claim as the MCWD may require. The fees charged shall be calculated correctly, contain no charges previously billed, and be consistent with the approved hourly fee schedule set forth in Attachment B, as amended from time to time pursuant to Section 3. The following information shall be set forth accurately in or attached to the billing invoice:

A. Staffing level, hourly rate, and detailed time and activity descriptions for each employee including but not limited to time spent with respect to conferences, correspondence, telephone calls, meetings, research, project review; and

B. Invoices supporting all outside costs and expenses.

The GSA Representative shall certify the Agency's claim within fifteen (15) working days, either in the requested amount or in such other amount as the GSA Representative approves in conformity with this MOU. The GSA Representative shall promptly submit such certified claim for payment, and the MCWD shall thereafter pay the balance of the certified claim not later than 30 calendar days after receipt of the certified claim.

If for any claim the MCWD certifies a lesser amount than the amount requested, and if the Agency desires to dispute the amount so certified, the Agency must submit a written notice of protest to the MCWD within twenty (20) working days after the Agency's receipt of the certification. The parties shall then promptly meet to review the dispute and resolve it on a mutually acceptable basis. No court action may be taken on such dispute until the parties have met and attempted to resolve the dispute in person.

5. Termination.

A. By the Agency:

The Agency may terminate this MOU at any time for any reason subject to the following:

i. The Agency shall provide written notice to the MCWD of its intent to terminate this MOU. Within fourteen (14) days of receipt of such notice (as set forth in Paragraph 7.D, below), the parties shall meet and confer in good faith to determine the reason for the termination, and attempt to resolve the reasons for termination set forth by the Agency.

ii. If the issues cannot be resolved by mutual agreement, the Agency may

terminate this MOU upon giving thirty (30) calendar days written notice to the MCWD following the meet and confer obligation set forth above.

iii. Upon such termination the Agency shall continue to provide such services as the MCWD may require until such time as the MCWD is able to identify another person or entity to render the necessary services. The MCWD shall not unreasonably delay in identifying such substitute person or entity, or in providing written notice that it will not require such substitute person or entity.

iv. The MCWD shall pay to the Agency all sums due and owing for services performed through the effective date of the termination, subject to all other provisions of this MOU. The effective date of termination is the termination date either as agreed to by the parties or set forth in the Agency's notice of termination set forth in Paragraph 5.A.ii, above, as may be extended by mutual agreement of the parties, or as required by the provisions of this Paragraph 5.A.

B. By the MCWD:

The MCWD may terminate this MOU at any time for its convenience and without cause upon giving thirty (30) calendar days written notice to the Agency. The MCWD shall pay to the Agency all sums due and owing for services performed through the effective date of the termination, subject to all other provisions of this MOU. The effective date of termination is the termination date contained in MCWD's notice of termination.

6. Indemnification.

A. To the maximum extent permitted by law, the Agency shall defend, indemnify and hold harmless the MCWD, its officers, agents, and employees, from and against any and all demands, claims, causes of action, suits, judgments, liabilities, liens, losses, damages, expenses, fines, penalties and assessments (collectively, "damages") incurred or sustained by the MCWD arising from or related to the performance by the Agency of its obligations under this MOU, excepting therefrom any damages arising from or related to the gross negligence or willful misconduct of the MCWD, its officers, agents, or employees.

B. To the maximum extent permitted by law, the MCWD shall defend, indemnify and hold harmless the Agency, its officers, agents, and employees, from and against any and all demands, claims, causes of action, suits, judgments, liabilities, liens, losses, damages, expenses, fines, penalties and assessments (collectively, "damages") incurred or sustained by the Agency arising from or related to the performance by the MCWD of its obligations under this MOU, excepting therefrom any damages arising from or related to the gross negligence or willful misconduct of the Agency, its officers, agents, or employees.

7. General Provisions.

A. No Assignment.

The Agency shall not assign or transfer this MOU, or any part thereof, without the written consent of the MCWD, nor shall the Agency assign any monies due or to become due to the Agency hereunder without the previous written consent of the MCWD.

B. Independent Contractor.

Nothing in this MOU shall be construed or interpreted to make the Agency, the Agency Representative or other Agency employees anything but independent contractors, and in all the Agency's activities and operations pursuant to this MOU, neither the Agency, the Agency Representative, nor other Agency employees shall for any purposes be considered employees or agents of the MCWD.

C. Non-disclosure of Information.

The MCWD shall not disclose, without express written consent of the Agency, any information relating to the Agency business which has been submitted by the Agency to the MCWD pursuant to the services to be rendered pursuant to this MOU. In the event that this MOU is terminated, the MCWD shall immediately return all Agency papers, documents, data, and like belongings to the Agency.

D. Notices.

i. Notices permitted or required to be given to the respective parties under this MOU shall be deemed given: (1) when personally delivered to the Project Manager or to the Agency Representative; (2) when personally delivered to the party's principal place of business during normal business hours, by leaving the notice with any person apparently in charge of the office and advising such person of the import and contents of the notice; or (3) three (3) days after the notice is deposited in the U.S. mail (by first class, certified, registered, or express mail), with postage fully prepaid, addressed to the party as indicated below.

ii. Notices mailed to the parties shall be addressed as follows:

To the Agency:	To the MCWD:
Howard Franklin, Senior Hydrologist 1441 Schilling Place Salinas, CA 93901 (831) 755-8902 (831) 424-7935 (facsimile)	Keith Van Der Matten, General Manager 11 Reservation Road Monterey, CA 93933 (831) 384-6131 (831) 883-5995(facsimile)

Copy to:	Copy to:
Kelly L. Donlon, Deputy County Counsel 168 W. Alisal St., 3 rd Floor Salinas, CA 93901 (831) 755-5313 (831) 755-5283 (facsimile)	Roger K. Masuda, General Counsel 517 E. Olive Ave. Turlock, CA 95380 (209) 667-5501 (209) 632-8176 (facsimile)

The addresses and fax numbers in this paragraph may be changed by either party, by giving notice to the other in the manner provided herein.

E. Subcontracting.

The Agency shall not subcontract or otherwise assign any portion of the work to be performed under this MOU without prior written approval of the MCWD. Any and all subcontracts shall be subject of the provisions contained in this MOU.

F. Modifications.

This MOU may be modified or amended only by written agreement of the parties. No waiver or modification of this MOU or of any covenant, condition, or limitation herein contained shall be valid unless in writing and duly executed by the parties hereto.

G. No Waiver.

No covenant or condition of this MOU can be waived except by the written consent of the Agency. Forbearance or indulgence by the Agency in any regard whatsoever shall not constitute a waiver of the covenant or condition to be performed by the MCWD. The Agency shall be entitled to invoke any remedy available to the Agency under this MOU or by law or in equity despite said forbearance or indulgence.

H. Sole Agreement.

This MOU contains the entire agreement of the parties relating to the rights herein granted and the obligations herein assumed. Any oral representations or modifications concerning this MOU shall be of no force or effect excepting a subsequent modification in writing, signed by the parties hereto.

I. Venue.

If any party herein initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that venue thereof shall be the Monterey County Superior Court.

J. Construed Pursuant to California Law.

The parties hereto agree that the provisions of this MOU will be construed pursuant to the laws of the State of California.

K. Authority to Execute.

The persons executing this MOU on behalf of their respective party represent and warrant that they have, or have received, the proper authority to so execute this MOU.

IN WITNESS WHEREOF, the Agency and MCWD have caused the Memorandum of Understanding to be executed:

Monterey County Water Resources Agency

Marina Coast Water District Groundwater
Sustainability Agency

By

David E. Chardavoyne
David E. Chardavoyne
General Manager 12/20/18

By

Keith Van Der Maaten
Keith Van Der Maaten
General Manager

APPROVED AS TO FORM

APPROVED AS TO FORM

CHARLES J. MCKEE, County Counsel

By

Kelly L. Donlon
Kelly L. Donlon
Deputy County Counsel

By

Roger K. Masuda
Roger K. Masuda
MCWD General Counsel

I. Venue.

If any party herein initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that venue thereof shall be the Monterey County Superior Court.

J. Construed Pursuant to California Law.

The parties hereto agree that the provisions of this MOU will be construed pursuant to the laws of the State of California.

K. Authority to Execute.

The persons executing this MOU on behalf of their respective party represent and warrant that they have, or have received, the proper authority to so execute this MOU.

IN WITNESS WHEREOF, the Agency and MCWD have caused the Memorandum of Understanding to be executed:

Monterey County Water Resources Agency

Marina Coast Water District Groundwater
Sustainability Agency

By David E. Chardavoyne
David E. Chardavoyne
General Manager 12/30/18

By _____
Keith Van Der Maaten
General Manager

APPROVED AS TO FORM

APPROVED AS TO FORM

CHARLES J. MCKEE, County Counsel

By _____
Kelly L. Donlon
Deputy County Counsel

By _____
Roger K. Masuda
MCWD General Counsel

ATTACHMENT A - Services

Technical and Professional Assistance to the MCWD		\$45,000 on as-needed basis
Area of Service and Possible Tasks	Agency Staffing Provided	
1. Project Management for GSP Development		
a. Provide/assist oversight of GSP consultant Management of scope of work, project timelines, deliverables	Primary: Associate Hydrologist Secondary: Senior Hydrologist	
b. Assist with oversight of consultant budget; coordinated with Regional Government Services		
c. Stakeholder communication and engagement coordinated with facilitator		
2. Data Acquisition, Processing, and Management		
d. Develop agreements between the Agency, MCWD and its consultants for the sharing of proprietary information	Primary: Senior and Associate Hydrologist	
e. Coordinate with consultant on selection or design of a Data Management System (as required by CCR 23 § 352.6) to ensure efficient transfer of existing data between MCWD, consultant, and Agency.	Primary: Associate Hydrologist Secondary: Hydrologist	
a. Facilitate the transfer of historical data to consultant for use in GSP development.	Primary: Hydrologist Secondary: Technician	
f. Refine and/or enhance ongoing Agency data collection programs to satisfy the timing, format, and extent of data required for GSP development and implementation	Primary: Senior and Associate Hydrologist Secondary: Hydrologist	
b. Implementation of refined/enhanced data collection program(s).	Primary: Hydrologist and Technician	
3. Professional Advising and Technical Support		
c. Professional review of deliverables from GSP consultant	Primary: Associate Hydrologist and Hydrologist	
d. Participation on Technical Advisory Committee	Primary: Senior or Associate Hydrologist Secondary: Hydrologist	
g. Provide consultant with subject-matter expertise on Agency water supply projects (e.g. reservoirs, CSIP, SVWP, Interlake Tunnel) or related requirements (e.g. Flow Prescription, Biological Opinion, HCP) with potential to impact GSP development.	Primary: Senior or Associate Hydrologist or Engineer	
4. Groundwater Model Management		
e. Facilitate transfer and use of Salinas Valley Integrated Hydrologic Model (SVIHM).	Primary: Associate Hydrologist	
f. Serve as liaison with USGS for model updates and technical assistance.	Secondary: Senior Hydrologist	
g. Assist with interbasin or inter-GSA coordination of modeling efforts.		

ATTACHMENT B – Agency Rate Structure

Technical and Professional Assistance to the MCWD

1. Services will be provided to the MCWD under Task B on an as-needed basis.
2. Costs for services provided under Task B will not exceed \$45,000 and will be at the rates shown below in the Agency's rate structure, as may be adjusted from time-to-time.

Job Class Title	Hourly
Senior Water Resources Hydrologist/Engineer	\$ 180.48
Associate Water Resources Hydrologist/Engineer	\$ 154.18
Water Resources Hydrologist/Engineer	\$ 131.97
Water Resources Technician	\$ 100.31

**AMENDMENT NO. 1 TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN MONTEREY COUNTY WATER RESOURCES AGENCY AND
THE MARINA COAST WATER DISTRICT
GROUNDWATER SUSTAINABILITY AGENCY**

THIS AMENDMENT NO. 1 to the Memorandum of Understanding between the Monterey County Water Resources Agency, a political subdivision of the State of California (hereinafter, "Agency") and The Marina Coast Water District Groundwater Sustainability Agency (hereinafter, "MCWD") is hereby entered into between the Agency and the MCWD (collectively, the Agency and MCWD are referred to as the "Parties").

WHEREAS, MCWD entered into a Memorandum of Understanding for Services with the Agency on April 29, 2019 (hereinafter, "MOU");

WHEREAS, the Parties wish to amend the MOU with an update to the Agency and MCWD representative contact information and a revised Attachment B – Agency Rate Structure, to continue providing services identified in the MOU;

NOW, THEREFORE, the Parties agree to amend the MOU as follows:

1. Amend the first paragraph of Section 3. "Compensation" to read as follows:

The Parties anticipate that the WRA Representative shall be an employee in the hydrologist or engineer class at the Agency. It is agreed by the parties that services may be provided pursuant to this MOU by others than the WRA Representative, but that such services shall pay the Agency, as compensation for the services provided pursuant to this MOU, according to the rate schedule attached as Attachment B. Agency will provide updated billing rates at the beginning of each fiscal year.

2. Amend Subsection D.ii "Notices" of Section 7. "General Provisions" to read as follows:

To the Agency:

Tamara Voss, Associate Hydrologist
1441 Schilling Place
Salinas, CA 93901
831.755.4860
831.424.7935 (facsimile)

To the MCWD:

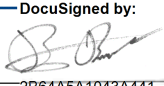
Remleh Scherzinger, General Manager
11 Reservation Road
Monterey, CA 93933
831.384.6131
831.883.5995 (facsimile)

3. Amend Attachment B – Agency Rate Structure with **Attachment B (revised) – Agency Rate Structure**
4. All other terms and conditions of the MOU remain unchanged and in full force.
5. This Amendment No. 1 shall be attached to the MOU and incorporated therein as if fully set forth in the MOU.

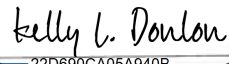
MCWD MOU Amendment No. 1

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 1 to the MOU as of the day and year written below:

**MONTEREY COUNTY WATER
RESOURCES AGENCY**

DocuSigned by:
By: 
2B64A5A1043A441
General Manager
Date: 7/12/2022 | 4:37 PM PDT

**Approved as to Form and Legality
Office of the County Counsel**

By: 
22D690CA05A940B
Assistant County Counsel
Date: 7/7/2022 | 2:09 PM PDT

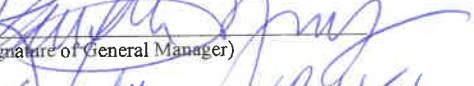
Approved as to Fiscal Provisions

DocuSigned by:
By: 
4E7E667876454AE...
Auditor-Controller
Date: 7/11/2022 | 10:46 AM PDT

DocuSigned by:
By: 
A59152F49ADC476...
Administrative Analyst
Date: 7/11/2022 | 11:10 AM PDT

**MARINA COAST WATER DISTRICT
GROUNDWATER SUSTAINABILITY
AGENCY**

*Contractor Business Name

By: 
(Signature of General Manager)

Title: General Manager / Remeh Schwinger
(Print Name and Title)

Date: 7/6/22

Approved as to Indemnity, Insurance Provisions

By: _____
Risk Management

Date: _____

*INSTRUCTIONS: IF CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. IF CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement.

Attachment B – Revised Agency Rate Structure

Technical and Professional Assistance to the MCWD

1. Services will be provided to the MCWD under Task B on an as-needed basis.
2. Costs for services provided under Task B will not exceed \$45,000 and will be at the rates shown below in the Agency's rate structure, agency will provide updated billing rates at the beginning of each fiscal year.

Job Class Title	Hourly (FY22)
Senior Water Resources Hydrologist/Engineer	\$193.00
Associate Water Resources Hydrologist/Engineer	\$164.00
Water Resources Hydrologist/Engineer	\$127.00
Water Resources Technician	\$108.00

**AMENDMENT NO. 2 TO THE
MEMORANDUM OF UNDERSTANDING
BETWEEN MONTEREY COUNTY WATER RESOURCES AGENCY AND
THE MARINA COAST WATER DISTRICT
GROUNDWATER SUSTAINABILITY AGENCY**

THIS AMENDMENT NO. 2 to the Memorandum of Understanding between the Monterey County Water Resources Agency, a political subdivision of the State of California (hereinafter, "Agency") and The Marina Coast Water District Groundwater Sustainability Agency (hereinafter, "MCWD") is hereby entered into between the Agency and the MCWD (collectively, the Agency and MCWD are referred to as the "Parties").

WHEREAS, MCWD entered into a Memorandum of Understanding for Services with the Agency on April 29, 2019 (hereinafter, "MOU"); and

WHEREAS, the Parties entered into an Amendment No. 1 to the MOU on July 12, 2022 to amend representative contact information and the Agency's rate structure in Attachment B; and

WHEREAS, the Parties wish to amend the MOU with a revised length of term.

NOW, THEREFORE, the Parties agree to amend the MOU as follows:

1. Amend the first paragraph of Section 1. "Effective Date and Term" to read as follows:

This MOU will be effective as of April 29, 2019, and unless earlier terminated as provided in this MOU, shall remain in effect until April 30, 2028. This MOU may be amended from time-to-time by mutual written agreement of the parties.

2. All other terms and conditions of the MOU remain unchanged and in full force.
3. This Amendment No. 2 shall be attached to the MOU and incorporated therein as if fully set forth in the MOU.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 2 to the MOU as of the day and year written below:

**MONTEREY COUNTY WATER
RESOURCES AGENCY**

DocuSigned by:
By: Uw Bauman
631AZ24C33274DD
General Manager
Date: 4/11/2023 | 8:42 AM PDT

**MARINA COAST WATER DISTRICT
GROUNDWATER SUSTAINABILITY
AGENCY**

By: [Signature]
General Manager
Date: 4/10/23
MCWD MOU Amendment No. 2

**Approved as to Form and Legality
Office of the County Counsel**

DocuSigned by:
By: Kelly L. Doulon
22D690CA05A940B...
Assistant County Counsel

Date: 4/11/2023 | 8:40 AM PDT

By: [Signature]
MCWD Asst. General Counsel

Date: 4-6-2023