

**DEPOSIT AND REIMBURSEMENT AGREEMENT BETWEEN  
MONTEREY COUNTY WATER RESOURCES AGENCY AND  
CALIFORNIA AMERICAN WATER FOR DEVELOPMENT OF  
MPWSP GROUNDWATER MONITORING PLAN**

This Deposit and Reimbursement Agreement ("**Agreement**") is made and entered into by and between the Monterey County Water Resources Agency, a water resources agency created pursuant to the Monterey County Water Resources Agency Act found at California Water Code Appendix Chapter 52 ("**MCWRA**"), and California-American Water Company, a California corporation ("**CAWC**"). MCWRA and CAWC are individually referred to herein as a "Party," and collectively as the "Parties."

**RECITALS**

A. In April of 2012, CAWC filed an application for a Certificate of Public Convenience and Necessity ("**CPCN**") with the California Public Utilities Commission ("**CPUC**") for approval of the Monterey Peninsula Water Supply Project ("**MPWSP**"). As proposed, the MPWSP would include slant source water wells, a desalination plant, product water pipelines, and related appurtenant facilities.

B. In December of 2012, MCWRA and CAWC entered into a Settlement Agreement and Mutual Release ("**Settlement**"), which was adopted in its majority by the CPUC on March 12, 2015, wherein among other things MCWRA agreed to develop a Groundwater Monitoring Plan ("**Plan**") and CAWC agreed to promptly pay the costs of developing and implementing the Plan throughout the life of the MPWSP upon submission of invoices from MCWRA or its successor.

C. The Parties have negotiated this Agreement to address payment of the costs of developing the Plan ("**Development Costs**"); implementation of the Plan will be subject to a subsequent agreement to be negotiated by the Parties, per section nine (9) of the Settlement Agreement and Mutual Release, execution date December 4<sup>th</sup>, 2012.

NOW THEREFORE, in consideration of the above Recitals, which are true and correct and incorporated herein by this reference, and of other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Term. The term of this Agreement shall commence on the date it has been executed by both Parties and expire upon the completion of development of the Plan, unless earlier terminated by one of the Parties. Either Party may terminate this Agreement for any reason or for no reason, upon ten (10) days prior written notice to the other Party. For purposes of this Agreement, the date of completion of the Plan development shall be established by written notice from MCWRA to CAWC.

2. Deposit; Additional Advances; Accounting; Survival.

A. Deposit. Within fourteen (14) days of execution of this Agreement by both Parties, CAWC shall deposit with MCWRA the sum of Twenty-Five Thousand Dollars (\$25,000.00) ("**Initial Deposit**") that shall be used solely to reimburse MCWRA for its reasonably incurred Development Costs.

B. Additional Deposits. If the Initial Deposit balance is reduced to \$5,000.00 or less, MCWRA shall so notify CAWC in writing and provide to CAWC for its approval a budget describing MCWRA's anticipated additional reasonable expenditures necessary to complete development of the

Deposit/Reimbursement Agrmt

MCWRA/CAWC

Page 1 of 4

Plan. CAWC shall exercise its reasonable discretion in reviewing the proposed budget and shall consult with MCWRA staff before disapproving any item in the proposed budget.

If CAWC does not approve the budget, MCWRA shall have no obligation to continue to develop the Plan and either Party may terminate this Agreement. If CAWC approves the budget, CAWC shall deposit with MCWRA such additional sums as necessary to cover MCWRA's anticipated remaining costs and expenses described in the budget, up to the Initial Deposit amount. This process may be repeated as necessary. Notwithstanding the foregoing, MCWRA may cease all work related to the development of the Plan until any additional deposit amounts have been received by MCWRA. The Initial Deposit and any additional deposits shall be collectively referred to as the "**Deposit(s)**."

C. Accounting. The Deposit(s) may be commingled with other MCWRA funds for purposes of investment and safekeeping, but MCWRA shall at all times maintain records as to the expenditure of the Deposit(s). MCWRA shall provide CAWC with an accounting of MCWRA's use of the Deposit(s) upon written request by CAWC, but not more frequently than once every thirty (30) days.

D. Survival. The provisions of this Section 2 shall survive the expiration or termination of this Agreement, until all MCWRA Costs reasonably incurred prior to the termination of the Agreement are paid.

3. Administration of Deposit(s). The Deposit(s) shall be administered as follows:

A. MCWRA may draw upon the Deposit(s) from time to time to pay the reasonably incurred Development Costs. Direct costs, including for consultant services (as described in Exhibit A) and legal costs, shall be reimbursed without markup. The hourly, fully burdened rates to be charged to CAWC for MCWRA staff anticipated to provide services necessary to develop the Plan are attached as Exhibit B. MCWRA may use the Deposit(s) to pay for MCWRA staff costs at the rates shown in Exhibit B; MCWRA staff shall track and record such time and have such records available for review by CAWC as provided for in Section 2.C.

B. Within thirty (30) calendar days following written notice from MCWRA to CAWC that development of the Plan is complete, or within thirty (30) calendar days following the expiration or termination of this Agreement, MCWRA shall refund any unused portion of the Deposit(s) to CAWC and provide a final accounting of MCWRA's use of the Deposit(s).

4. Indemnification. CAWC shall indemnify, defend, and hold harmless MCWRA, the members of its governing body, its officers, employees, and agents (collectively, "**Indemnitees**"), from and against any and all claims, demands, damages, liabilities, losses, costs, expenses, causes of action, proceedings, judgments, penalties, liens and losses, of any nature whatsoever, including reasonable fees of accountants, attorneys and other professionals, and all reasonable costs associated therewith, death or injury to any person or injury to any property (collectively, "**Damages**"), whether actual, alleged or threatened, arising out of, pertaining to, or relating to development of the Plan, except for Damages arising from the active negligence, sole negligence, recklessness or willful misconduct of Indemnitees, as determined by binding arbitration or court decision or by the agreement of the Parties. The provisions of this Section 4 shall survive the expiration or termination of this Agreement.

5. Assignment. CAWC shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without MCWRA's prior written consent.

6. Notices. Any notices that either Party may desire to give to the other Party under

this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, including Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the Party as set forth below or at any other address as that Party may later designate by notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To MCWRA:                      MCWRA  
1441 Schilling Place, North Building  
Salinas, California 93901  
Attention: Tamara Voss

To CAWC:                      California American Water  
511 Forest Lodge Road, Suite 100  
Pacific Grove, California 93950  
Attn: Engineering Manager

7.     Modifications. This Agreement may be supplemented, amended or modified only by a writing signed by both Parties.

8.     Governing Law; Forum; Attorney Fees. MCWRA and CAWC understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the Parties to this Agreement and also govern the interpretation of this Agreement. The Parties may agree to mediate or arbitrate any dispute concerning this Agreement. Any litigation concerning this Agreement shall take place in the superior or federal district court with geographic jurisdiction over MCWRA (Monterey County). In the event such litigation is filed by one Party against the other to enforce its rights under this Agreement, the prevailing Party, as determined by the judgment of the court or an arbitrator, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

9.     Word Usage. Unless the context clearly requires otherwise, (a) the word "shall" is mandatory, and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" and "including" are not limiting. The term "days" shall mean calendar days.

10.    Time of Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance.

11.    Severability. If a court or an arbitrator of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid for any reason, the validity and enforceability of the remaining provisions of this Agreement shall not be affected.

12.    Ambiguities. Each Party and its counsel have participated fully in the review and revision of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement.

13.    Waiver. No delay or omission to exercise any right, power or remedy accruing to MCWRA under this Agreement shall impair any right, power or remedy of MCWRA, nor shall it be construed as a waiver of, or consent to any breach or default. No waiver of any breach, any failure of any condition, or any right or remedy under this Agreement (1) shall be effective unless it is in writing and signed by the Party making the waiver; (2) shall be deemed to be a

waiver of, or consent to any other breach, failure of a condition, or right or remedy, or (3) shall be deemed to constitute a continuing waiver unless the writing expressly so states.

14. Entire Agreement. This Agreement contains the entire understanding between the Parties relating to the obligations of the Parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each Party is entering into this Agreement based solely upon the representations set forth herein and upon each Party's own independent investigation of any and all facts such Party deems material.

15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

16. Authority to Execute this Agreement. The person or persons executing this Agreement on behalf of CAWC and MCWRA warrant and represent that he or she has the authority to execute this Agreement on behalf of CAWC or MCWRA as applicable and has the authority to bind CAWC or MCWRA as applicable to the performance of its obligations hereunder.

The Parties hereto have executed this Agreement on the dates set forth below.

**CAWC:**

CALIFORNIA-AMERICAN WATER  
COMPANY, a California corporation

By: 

Christopher Cook, Engineering Manager

Date: 1/30/18

**MCWRA:**

MONTEREY COUNTY WATER RESOURCES  
AGENCY, a water resources agency

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

David E. Chardavoyne, General Manager

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

Approved as to Form:

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

Jesse J. Avila, Agency Counsel

## **EXHIBIT A**

### **Scope of Work for the Integrated Coastal Monitoring and Reporting Plan**

Exhibit A  
Deposit/Reimbursement Agrmt  
MCWRA/CAWC

## *EXHIBIT A*

### **SCOPE OF WORK FOR INTEGRATED COASTAL MONITORING AND REPORTING PLAN**

#### **Project Understanding**

The California American Water Company (CalAm) is the project proponent for the slant wells to provide feed water to a desalination plant element of the Monterey Peninsula Water Supply Project (MPWSP). The MPWSP also includes aquifer storage and recovery (ASR) and in lieu use of the resultant produced water and of highly treated wastewater from Monterey One Water.

Per a settlement agreement executed in 2012, the Monterey County Water Resources Agency (Agency) is to develop a monitoring and reporting plan (Plan) to monitor the operations and any potential effects of the MPWSP on the Salinas Valley Groundwater Basin. CalAm established a **Slant Well Special Study Monitoring Network (Special Study)** to meet research and special study objectives. The Agency has operated a long-term, regional ambient coastal monitoring network (**Ambient Network**) used to document groundwater levels and quality at the coast since the 1950's. The CEQA review of the Slant Well project is ongoing; a draft EIR/EIS has been circulated and the public comment period has closed; a Final EIR/EIS is in production and could result in additional monitoring requirements identified in the mitigation monitoring and reporting program (MMRP). The FEIR/EIS could also result in decisions by other regulatory and permitting agencies that include specific regulatory compliance monitoring requirements in related permits. The final MMRP and permit requirements are not known at this time.

The study will investigate how the Slant Well Special Study Monitoring network can provide the basis for meeting settlement agreement compliance and detection objectives and be integrated into the existing MCWRA ambient coastal monitoring program. The outcome is to be an Integrated Coastal Monitoring and Reporting Program (Program) established consistent with the Settlement agreement between the County, MCWRA and CalAm. The plan design will identify the network objectives, location for additional monitoring wells (if needed), constituents and parameters to measure, frequency of measurement, and a procedure for the monitoring, testing, and analysis of water from any such wells. If the EIR is certified and the MPWSP moves forward, the objectives for the existing Slant Well Special Study Monitoring Network may be adapted to meet additional compliance and detection objectives pursuant to the EIR and permitting requirements.

We will identify data gaps, evaluate implementation strategies, and make a recommendation for an Integrated Coastal Monitoring and Reporting Plan (Plan) to: 1) track the operations aspects of the slant wells, 2) *detect* any water level and quality effects from the proposed project. The implementation strategies to be considered for the operation and maintenance of the proposed Plan include Agency, Consultant, or a combination of Agency/Consultant. As such, this study is both a management and technical evaluation. There will be both short-term costs to develop the network, and long-term costs to operate and maintain the Program.

This project is not intended to support full and complete review of the Agency's long-term, ambient coastal monitoring program but it is critical to put this effort in context of the overall Plan to understand coastal conditions and Program operations.

### **Approach**

Our approach is to design a physical monitoring network that produces scientifically credible and defensible data and analysis results which document operational effects of the Test Slant Well and the proposed full MPWSP, in order to determine if there are any impacts or harm to the Salinas Valley Groundwater Basin. The existing Ambient Network and Special Study reports provide the starting point to evaluate the data gaps, potential needs to fill these gaps, and the costs for collection, analysis and reporting of the data. The Plan will include evaluating both short-term (start-up) needs and long-term (ongoing). We will consult with the Agency during this effort. Tasks are related to:

- Reviewing and documenting the existing Special Study and Ambient Network
- Development of the monitoring objectives that Plan is to address
- Identification of data gaps to meet objectives
- Develop approaches to filling data gaps
- Review of analysis methods
- Design of an "idealized" network (collection, processing, analysis, reporting) to provide a basis for comparison of management and operations costs
- Evaluating the pros/cons of the management alternatives for the idealized network, including documenting constraints and opportunities (e.g.; integration with the Agency's Ambient Network)
- Reviewing data management, exchange, reporting needs, and management approach
- Making a final findings, conclusions and recommendations for the Integrated Coastal Monitoring and Reporting Plan

To conduct the Integrated Coastal Monitoring and Reporting Plan design, we will consider: 1) the spatial and temporal coverage of the sampling sites; 2) the objectives of a monitoring programs; 3) uncertainties in the complex nature of geologic, hydrologic, and other environmental factors; 4) uncertainty (geologic, hydrologic, and environmental); 5) decisions and actions that need to be supported by the information generated, 6) target audience of analysis, 7) the range of management costs and the approaches and methods for Program operations and maintenance.

Inputs to the analysis include: Draft and Final EIR/EIS (ESA, 2017), Test Slant Well Reports (Geoscience), Test Slant Well Long Term Pumping Monthly Monitoring Reports, Monterey Peninsula Water Supply Project Hydrogeologic Investigation (Geoscience, 2014), Hydrogeologic Investigation Work Plan (Geoscience, 2013), Hydrogeologic Investigation Borehole Technical Memorandum (HWG), Slant Well Survey (MWH, Oct 2015), the Electrical Resistivity Tomography Data (ERT) work performed by Stanford University, the Agency's Ambient Network, and other local data and GIS coverages. Inputs also include Agency comments on interim technical memorandums prepared for this purpose. We can accommodate the participation of other parties should the Agency seek to use the HWG or other experts and interested parties.

The outputs and deliverables include technical memorandum or briefings that document interim result, obtain input and feedback, and make interim decisions and key milestones, and provide the basis for subsequent development of draft report chapters. The draft Integrated Coastal Monitoring and Reporting Plan will be prepared for Agency review and comment prior to preparing the final report. Costs include four on-site meetings; monthly conference (six) calls over anticipated 6-month project period. The 2018 rate schedule and project budget are provided below.

### **Task 1 Kick-off and Mobilization**

The purpose of this task is to ensure that there is shared understanding between the consultant and Agency, mobilize the project; identify needed data or studies; define project communications.

- Meeting No. 1 on-site meeting with Agency
- Review scope
- Clarify study objectives, and questions to be addressed through a revised monitoring program,
- Define monitoring network objectives
- Discuss outside interests, expectations and potential project pitfalls
- Confirm the spatial extent of the investigation; elements of the MPWSP that are to be considered in the design; and how the proposed network could integrate with regional, ambient monitoring.
- Identify other participant, peer review or outreach requirements
- Document Agency staff roles, classification descriptions, staffing costs/rates
- Obtain Monterey County chemistry lab costs for comparison with commercial laboratory
- Coordinate data transfers
- Establish final interim work products, meeting schedule and peer review process expectations

**Deliverable:** Consultant will provide meeting notes documenting key discussion points, decisions, and actions.

### **Task 2 – Review and Document Existing Monitoring Networks, Methods, and Costs**

The purpose of this task is to document the current networks for purposes of comparison of methods and costs, and to identify opportunities and constraints related to short term start up and long-term maintenance and operations of the network ultimately designed.

- For both the existing Slant Well Special Study Network and the Agency Ambient Network , review and document the current approaches for:
  - Sampling/Data collection frequency
  - Analyte and laboratory methods and standards (QA/QC protocols)
  - Sample analysis/monitoring methodology and standards (QA/QC protocols)
  - Well instrumentation types, calibration, maintenance procedures and frequency
  - QA/QC protocols
  - Data processing steps



- Data analysis
  - Report, map, and graph formats
  - Monitoring well maintenance requirements and frequency
- Consult with GeoScience to document and review current Slant Well monitoring network objectives, costs; data and work flows; resources requirements for data collection, processing, analysis and reporting.
- Document and review Agency's Programs, objectives, costs, data and work flows; resources requirements for data collection, processing, analysis and reporting
- Preliminary analysis of opportunities and constraints to integrating monitoring networks and network objectives

### **Task 3- Identify Data Gaps and Uncertainties**

The purpose of this task is to identify the data gaps that are to be filled by the Plan to be designed; list uncertainties that may be addressed by the proposed Plan and any that may require further special study and investigation outside of the current scope of work.

- Review and document areas of uncertainty in technical and analytical data
  - Consult with Geoscience/HWG members regarding existing monitoring and data gaps and uncertainty
  - Consult with modelers (Geoscience, HydroFocus) to discuss/identify data gaps and uncertainty encountered
  - Review model results with attention to errors between observed and simulated conditions to document uncertainties that could be addressed through additional monitoring or other special studies
  - Consult with the Agency regarding existing monitoring and data gaps and uncertainty
- Review the Agency's monitoring responsibilities associated with the Settlement Agreement
  - Evaluate how monitoring results and reporting requirements are to be used to trigger subsequent actions
  - Review the Settlement Agreement for monitoring and reporting requirements
  - Document all reporting requirements
- Evaluate representative nature of the current monitoring wells in terms of the formations monitored and flow regimes
- Establish final revised Program objectives and plan to fill identified data gaps, meet compliance requirements, address uncertainty and answer questions
- Prepare draft version of Interim Memorandum I
- Meeting No. 2 – on-site with the Agency
  - To discuss findings
  - To review deliverable – Task 2 and 3 draft version of Interim Memorandum I
- Agency review and comments on draft Interim Memorandum I

***Deliverable:*** Task 2 and 3 final version of Interim Memorandum I.

### **Task 4 Coastal Monitoring and Reporting Program Design**

The purpose of this task is to design the idealized network and requirements for development (short term) and maintenance and operations (long term) so that the “normalized” description

can be used to compare alternative management approaches to development and implementation.

- Obtain data on county rights of way, easements and public lands that may be accessible for siting monitoring wells; map potential locations
  - Work with CalAm to have them install any addition monitoring well clusters that have been identified to fill spatial gaps in well network
- Identify and document potential short- term start-up costs
  - Instrumentation
- Long Term operations and maintenance program
  - Sampling/Data collection frequency
  - Analyte and laboratory methods and standards (QA/QC protocols)
  - Sample analysis/monitoring methodology and standards (QA/QC protocols)
  - Well instrumentation types
  - QA/QC protocols
  - Data processing steps
  - Data analysis
  - Report, map, and graph formats
  - Monitoring well maintenance requirements and frequency
- Evaluate and recommend data management, exchange and reporting approaches.
- Describe technical constraints and opportunities to implement the network and integrate the programs. This includes such things and well siting limitations, need for detailed study to reduce uncertainty (e.g.; model improvements, additional geophysics, etc.)
- Evaluate phased development of monitoring wells; this could be based on observations at the existing network (e.g.; identify detection limits at wells that would serve as triggers to initiate further monitoring or actions)
- Develop preliminary recommendations
- Hold a public outreach meeting that will present the goals of the Plan and receive comments.

#### **Task 5 Evaluate Implementation/Management Alternatives and Costs Comparison for Recommended Network**

The purpose of this task is to compare the alternative management approaches identified in the RFP using the normalized/idealized monitoring network identified in Task 4. The pro's and con's for the three approaches will be developed to allow for comparison. Alternatives will present a range of costs. The consultant will make final recommendations to be included in the draft and final report.

- Develop and document pro's and con's for the different management approaches.
- Document the management constraints and opportunities to integrating monitoring networks and implementing the proposed network
- Develop recommendations. Prepare Task 4 and 5 Interim Memorandum
- Meeting No. 3 with the Agency

***Deliverable:*** Task 4 and 5 final version of Interim Memorandum II.

### **Task 6 Prepare Draft and Final Report**

The purpose of this task is to develop a draft report by aggregating prior interim memorandums. The draft report will be presented to the agency to document the analysis and the consultant findings and receive comments. After Agency review to obtain comments a final report will be prepared.

- Draft findings, conclusions and recommendations
- Compile prior interim TMs into draft report
- Agency review and comment
- Meeting No. 4 with the Agency

**Deliverable:** Draft and Final Integrated Coastal Monitoring and Reporting Plan

*EXHIBIT B*

County of Monterey

**Integrated Coastal Monitoring and Reporting Plan****BUDGET****\$62,300**

<b>Professional Service</b>			M Feeney	M. Zidar
TASK DESCRIPTION	HOURS	FEE	\$200	\$185
Task 1 Kick-off and Mobilization	20	3,820	8	12
Task 2 Review and Document Existing Monitoring Networks, Methods, and Costs	64	12,080	16	48
Task 3 Identify Data Gaps and Uncertainties	36	6,840	12	24
Task4 Coastal Monitoring and Reporting Program Design	84	16,080	36	48
Task 5 Evaluate Implementation/Management Alternatives and Costs Comparison for Recommended Network	80	15,160	24	56
Task 6 Prepare Draft and Final Report	44	8,320	12	32
<b>TOTAL (LABOR)</b>	<b>328</b>	<b>62,300</b>	<b>108</b>	<b>220</b>
			<b>\$ 21,600</b>	<b>\$ 40,700</b>

**RATE SHEET**  
**Martin B. Feeney, PG, CEG CHg**  
**Consulting Hydrogeologist**

**Fee Schedule 2018***Professional Services*

Principal Hydrogeologist	\$200/hour
Principal Hydrogeologist (field)	\$160/hour
Project Hydrogeologist	\$175/hour
Word Processor	\$70/hour
Illustrator/GIS	\$100/hour

*Equipment*

Data Logger and Transducer	\$100/day
Conductivity Meter	\$75/day
Turbidity Meter	\$75/day

*Indirect Charges*

Reproduction	Cost + 10%
Outside Services	Cost + 10%
Laboratory Services	Cost + 10%
Mileage (outside 100 mile radius)	\$0.56/mile

## **EXHIBIT B**

### **MCWRA Staff Rates**

<b>FY 17-18</b>	<b>Rate</b>
Senior Hydrologist	\$180.48
Associate Hydrologist	\$156.63
Hydrologist	\$133.97
Water Resources Technician	\$114.02

