

MEMORANDUM OF UNDERSTANDING

between

THE COUNTY OF MONTEREY

and

THE SALINAS VALLEY BASIN GROUNDWATER SUSTAINABILITY AGENCY

regarding

REIMBURSEMENT OF COSTS ASSOCIATED WITH USE OF THE
SALINAS VALLEY INTEGRATED HYDROLOGIC MODEL

WHEREAS, the County of Monterey ("County") is a political subdivision of the State of California; and,

WHEREAS, the Salinas Valley Basin Groundwater Sustainability Agency ("SVBGSA") is a joint powers authority designated as the exclusive Groundwater Sustainability Agency for most of the Salinas Valley Groundwater Basin ("Basin") pursuant to the Sustainable Groundwater Management Act ("SGMA"); and,

WHEREAS, pursuant to a litigation settlement, the County has contracted with the United States Geological Survey ("USGS") to prepare an integrated hydrologic model for the Basin ("SVIHM"); and

WHEREAS, the SVBGSA is in the process of developing a Groundwater Sustainability Plan ("GSP") for the 180/400 ft. sub-basin of the Basin, and desires to utilize so much of the SVIHM as may be available for that purpose; and

WHEREAS, the County is prepared to execute an amended scope of work with the USGS to allow the SVBGSA to utilize the SVIHM with the support of the USGS; and

WHEREAS, the amended scope of work with the USGS will require additional expense not associated with the County's obligations under the above referenced settlement agreement;
and

WHEREAS, the SVBGSA is prepared to reimburse the County for the additional expenses associated with the amended scope of work with the USGS; NOW THEREFORE,

For good and valuable consideration, the sufficiency of which is hereby acknowledged, the County and the SVBGSA 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 close of business, January 31, 2020. This MOU may be amended from time-to-time by mutual written agreement of the parties.

2. Obligations of the Parties

A. County

i. The County hereby designates the SVBGSA as its agent for purposes of this MOU and in order that it and its retained consultant may have access and utilize the SVIHM.

ii. The County will execute the Amended Scope and Fee Schedule ("Amended Scope") with the USGS attached hereto as Exhibit 1 and incorporated herein by reference.

B. SVBGSA

i. The SVBGSA will execute the Amended Scope.

ii. The SVBGSA will, within 30 days of the effective date of this MOU, tender to the County the sum of \$15,924 which shall reimburse the County for expenses associated with the Amended Scope for Federal Fiscal Year ("FFY") 2018 (ending September 30, 2018). No later than October 15, 2019, the SVBGSA shall pay to the County the sum of \$16,401, and no later than October 15, 2020, the sum of \$13,624, which shall reimburse the County for the expenses associated with the Amended Scope for FFYs 2019 and 2020, respectively.

iii. The SVBGSA shall execute, and require any officer, employee, agent or consultant to execute if requested, any non-disclosure or other agreement required by the USGS for use of the SVIHM. The SVBGSA agrees that use of the SVIHM, and any output files resulting therefrom, shall be only for the purposes of preparing a GSP for the 180/400 ft. sub-basin and for no other purpose unless specifically agreed to by the parties and the USGS.

3. Termination

A. By the County

The County may terminate this MOU only for cause, which shall be defined as failure to make any payment required by paragraph 2.B.ii, above, or any violation of the provisions of paragraph 2.B.iii, above, subject to the following:

i. The County shall provide advance written notice to the SVBGSA of the termination and the reasons therefore. The SVBGSA shall be given 15 calendar days to correct the reason for the termination. If the County is satisfied, in its sole discretion, that the reasons

for the termination have been remedied, the MOU shall not terminate and shall continue in force and effect.

ii. If the SVBGSA does not remedy the reasons for the termination to the satisfaction of the County in the County's sole discretion, the County shall give the SVBGSA written notice thereof and the MOU shall terminate on a date provided by the County in said notice. Upon termination, the SVBGSA shall cease to be the County's agent for purposes of the Amended Scope and shall not be entitled or allowed to utilize all or any portion of the SVIHM or its output files for any purpose, and all written and electronic materials shall be returned to the County and the SVBGSA shall pay to the County all sums due and owing for services performed by the USGS through the effective date of the termination.

B. By the SVBGSA

The SVBGSA may terminate this MOU at any time for its convenience and without cause upon giving sixty (60) calendar days written notice to the Agency. The effective date of termination is the termination date contained in SVBGSA's notice of termination, unless otherwise agreed to by the parties. Upon termination, the SVBGSA shall cease to be the County's agent for purposes of the Amended Scope and shall not be entitled or allowed to utilize all or any portion of the SVIHM or its output files for any purpose, and all written and electronic materials shall be returned to the County and the SVBGSA shall pay to the County all sums due and owing for services performed by the USGS through the effective date of the termination.

4. Indemnification

A. To the maximum extent permitted by law, the County shall defend, indemnify and hold harmless the SVBGSA, 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 SVBGSA arising from or related to the performance by the County of its obligations under this MOU excepting therefrom any damages arising from or related to the gross negligence or willful misconduct of the SVBGSA, its officers, agents, or employees.

B. To the maximum extent permitted by law, the SVBGSA shall defend, indemnify and hold harmless the County, 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 County arising from or related to the performance by the SVBGSA of its obligations under this MOU excepting therefrom any damages arising from or related to the gross negligence or willful misconduct of the County, its officers, agents, or employees.

5. General Provisions

A. No Assignment.

The MOU cannot be assigned or transferred without the express written consent of both parties.

B. Independent Contractor

Nothing in this MOU shall be construed or interpreted to make the SVBGSA a constituent part of the County, or any officer, employee, consultant or other agent of the SVBGSA an officer or employee of the County. This MOU shall only be construed to make the SVBGSA an agent of the County for the purpose of allowing the SVBGSA's retained consultant to have access to and utilize the SVIHM, and for no other purpose. Neither the SVBGSA nor its officers, employees, consultants or other agents shall have the authority to bind the County in any manner without the express written consent of the County.

C. Non-disclosure of Information

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

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 individuals identified below; (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) 5 days after the notice is deposited in the U.S. mail, first class, postage prepaid, and addressed to the party as indicated below.

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

To the County: Carl Holm, RMA Director 1441 Schilling Place 2nd Floor - South Salinas, CA 93901 (831) 755-5103 holmcp@co.monterey.ca.us	To the SVBGSA: Gary Petersen, General Manager P.O. Box 1350 Carmel Valley, CA 93924 (831) 471-7518 peterseng@svbgsa.org
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Copy to:	Copy to:
Charles J. McKee, County Counsel 168 W. Alisal St., 3 rd Floor Salinas, CA 93901 (831) 755-5045 mckeecj@co.monterey.ca.us	Leslie J. Girard, SVBGSA Counsel 168 W. Alisal St., 3 rd Floor Salinas, CA 93901 (831) 755-5365 girardlj@co.monterey.ca.us

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

E. 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.

F. No Waiver

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

G. 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.

H. 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.

I. 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.

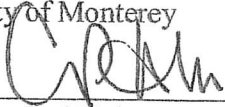
J. Authority to Execute

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, AGENCY and SVBGSA have caused the Memorandum of Understanding to be executed:


County of Monterey

By


Carl Holm
RMA Director

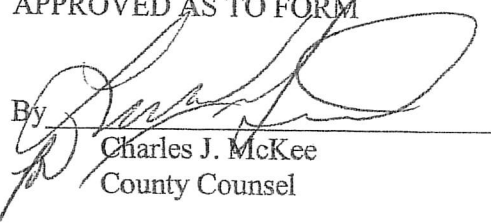
Salinas Valley Basin Groundwater
Sustainability Agency

By

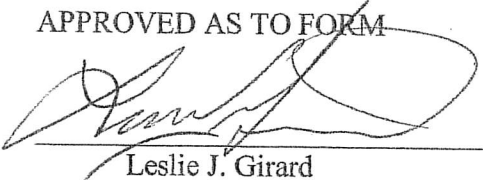

Gary Petersen
General Manager

APPROVED AS TO FORM

By


Charles J. McKee
County Counsel

APPROVED AS TO FORM


Leslie J. Girard
SVBGSA Counsel