

NON-DISCLOSURE AGREEMENT
between
THE MONTEREY COUNTY WATER RESOURCES AGENCY
and
THE MARINA COAST WATER DISTRICT GROUNDWATER SUSTAINABILITY AGENCY

This Nondisclosure Agreement (“Agreement”) is effective as of the last signature date and is by and between the Monterey County Water Resources Agency (“MCWRA” or “Disclosing Party”) and the Marina Coast Water District Groundwater Sustainability Agency (“MCWD GSA” or “Receiving Party”), which are referred to collectively as “Parties”.

RECITALS

WHEREAS, MCWRA 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.

WHEREAS, the Board of Directors of the Marina Coast Water District elected to become the exclusive groundwater sustainability agency for the Marina/Ord Area of the Monterey Subbasin which overlies portions of the Seaside Area Subbasin to implement the Monterey Subbasin Groundwater Sustainability Plan for the Monterey Subbasin of the Salinas Valley Groundwater Basin pursuant to the Sustainable Groundwater Management Act.

WHEREAS, the Parties wish to disclose and provide information and/or materials for the purpose of exchanging proprietary information for cooperative research and development.

WHEREAS, the Disclosing Party processes certain technical, economic, business information and/or materials related to records of digital hydrologic data of the Salinas Valley Groundwater Basin, including the Disclosing Party’s Zones 2, 2A, 2B, and 2C, or related analysis data and files and related correspondence which Disclosing Party considers proprietary, notwithstanding Article 5 of this Agreement, (hereinafter referred to as “Proprietary Information”).

NOW THEREFORE, in consideration of the mutual covenants contained herein, the Parties hereto agree as follows:

1. The Receiving Party shall not disclose the Proprietary Information from the Disclosing Party to any of its employees or consultants other than those who have a need to review it and which employees or consultants are legally obligated to honor the confidentiality provisions herein.
2. The Receiving Party shall keep the Proprietary Information confidential and shall use the Proprietary Information only for the purpose of internal analysis of climatic and hydrologic conditions. The Receiving Party shall not make any copies of the Proprietary Information except as necessary for its employees or consultants who are entitled to review it under Article I above. Any copies that are made shall be identified as belonging to the disclosing Party and marked “Proprietary”.
3. To the extent permitted by law, the Receiving Party shall protect the disclosed Proprietary

Information by using the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination or publication of the confidential information as the Receiving Party uses to protect its own proprietary information of a like nature.

4. The Receiving Party shall have a duty to protect all Proprietary Information which is disclosed to it, whether disclosed in writing, orally or in any other manner and which is identified as proprietary at the time of disclosure. If the disclosure is in writing, it shall be marked "Proprietary". If the disclosure is not in writing, the Disclosing Party shall provide the Receiving Party with a written memorandum summarizing and designating such information as proprietary within fifteen (15) business days of the disclosure.
5. Parties' obligations of non-disclosure and non-use with respect to Proprietary Information shall not include:
 - a. Any information that, at the time of disclosure to the Receiving Party, is published, known publicly, or is otherwise in the public domain; or
 - b. Any information that, after disclosure to the Receiving Party, is published or becomes known publicly or otherwise becomes part of the public domain, through no fault of the Receiving Party; or
 - c. Any information that, prior to the time of disclosure to the Receiving Party, is known to the Receiving Party, as evidenced by its written records; or
 - d. Any information that has been or is disclosed to the Receiving Party in good faith by a third party who was not, or is not, under any obligation of non-disclosure or secrecy at the time said third party discloses to the Receiving Party; or
 - e. Any information that is independently developed by or on behalf of the Receiving Party, without reliance on the Proprietary Information received hereunder.
6. The Disclosing Party warrants that it has the right to make the disclosures under this Agreement.
7. All materials delivered under this Agreement will remain the property of the Disclosing Party. At the earliest feasible time, or at the conclusion of the project, the receiving Party shall return all materials to the Disclosing Party.
8. Neither Party has an obligation under this Agreement to purchase, sell or license any service or item from the other party.
9. The Receiving Party understands and acknowledges that the Proprietary Information may contain inaccuracies.
10. The Receiving Party agrees to waive and release the Disclosing Party for all activities connected with the use or interpretation of the Proprietary Information. The Receiving Party agrees that the Disclosing Party will not be held liable or responsible in any way for any damages to the Receiving Party that may occur as a result of the Receiving Party's use or interpretation of the Proprietary Information. The Receiving Party expressly and unconditionally assumes all risks known or unknown, foreseen or unforeseen, and relating to or incidental to its use or interpretation of the Proprietary Information.
11. The Receiving Party agrees to hold harmless, defend and indemnify the Disclosing Party from any and all claims, actions or proceedings against the Disclosing Party arising out of the

Disclosing Party's release of the Proprietary Information. The Receiving Party will reimburse the Disclosing Party for any court costs and attorney fees which the Disclosing Party may be required by a court to pay as a result of such action. The Disclosing Party may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve the Receiving Party of its obligations under this Agreement.

12. The Parties do not intend that any agency or partnership relationship be created between them by this Agreement.
13. All additions or modifications to this Agreement must be in writing and signed by the Parties.
14. This Agreement shall become effective on the date of final signature and shall remain in effect for five (5) years. This Agreement may be terminated earlier by thirty (30) days prior written notice by either Party to the other.
15. The Parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
16. This Agreement is entered into in the County of Monterey, State of California, and shall be construed and enforced in accordance with the laws of the State of California. The Parties hereby agree that the County of Monterey shall be the proper venue for any dispute arising hereunder.
17. Nothing shall preclude Parties from disclosing Proprietary Information which is required to be disclosed in compliance with applicable laws or regulations or by order of a court or other body of competent jurisdiction, provided the recipient of Proprietary Information shall have given the provider of Proprietary Information immediate notice of such a requirement to disclose, prior to making any disclosure.
18. The above Recitals are true and correct and are incorporated by this reference.

IN WITNESS WHEREOF, Parties intend to be legally bound and have caused this Agreement to be executed as of the last date of signature.

**MONTEREY COUNTY
WATER RESOURCES AGENCY**

DocuSigned by:

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**MARINA COAST WATER
DISTRICT GROUNDWATER
SUSTAINABILITY AGENCY**

DocuSigned by:

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