

**REGULAR MEETING AGENDA**

**July 11, 2019**

**2:00 PM**

County of Merced Board Chambers, Third Floor  
2222 M Street, Merced, CA

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Bob Kelley, Stevinson Water District

Chair

Nic Marchini, Western White Area Representative

Vice Chair

George Park, Lone Tree Mutual Water Company  
Lloyd Pareira, County of Merced

Kole Upton, Le Grand-Athlone Water District  
Michael Gallo, Eastern White Area Representative

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**1. CALL TO ORDER/ROLL CALL**

**2. PLEDGE OF ALLEGIANCE**

**3. PUBLIC COMMENT PERIOD**

Public opportunity to speak on any matter of public interest within the Board's jurisdiction including items on the Board's agenda. Testimony limited to three minutes per person.

**4. APPROVAL OF MINUTES**

Action to approve the meeting minutes from June 5, 2019.

**5. LEGAL COUNSEL CONTRACT EXTENSION**

Approve and authorize the Chairman to sign an amendment to Contract 2017-01 with Herum Crabtree, Suntag to extend the term of contract for legal services for one year and to amend the compensation to not exceed \$100,000.

**6. PROVOST AND PRITCHARD PROPOSITION 218 SUPPORT CONTRACT EXTENSION**

Approve and authorize the Chairman to sign the amendment to Contract 2018-02 with Provost and Pritchard Engineering Group, Inc. to continue to provide engineering, technical and professional services related to the Proposition 218 process through December 31, 2019.

**7. WOODARD & CURRAN FEE MODEL MAINTENANCE CONTRACT**

Approve and authorize the Chairman to sign, contingent upon the adoption of the proposed landowner fee for SGMA compliance after the July 23, 2019 public hearing, a contract with Woodard and Curran, Inc. to provide technical services to annually update and maintain the Parcel Fee Model to support the proposed landowner fee.

**8. PARCEL LAND USE UPDATE PROCESS FOR LANDOWNER FEE**

Discussion and possible action to approve a proposal that sets forth a standard process for landowners in the GSA, subject to the proposed landowner SGMA compliance fee, to update their land use in the Parcel Fee Model for the purpose of the landowner fee, should it be necessary.

**9. COORDINATION COMMITTEE UPDATE**

**10. TECHNICAL AND ADVISORY COMMITTEES UPDATE**

**11. STAFF UPDATE**

**12. COMMENTS FROM THE BOARD**

**13. NEXT REGULAR MEETING: OCTOBER 10, 2019**

**14. ADJOURNMENT**

**MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY JOINT POWERS  
AUTHORITY (JPA)  
GOVERNING BOARD**

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**MINUTES FOR MEETING OF JUNE 05, 2019**

The agenda, original minutes, and all supporting documentation (for reference purposes only) of the Merced Subbasin Groundwater Sustainability Agency Governing Board meeting of June 05, 2019 are available online at [www.countyofmerced.com/MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

**I. CALL MEETING TO ORDER**

The special closed session meeting of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Authority Governing Board was called to order at 12:00 p.m., on June 05, 2019, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California. The GSA Board conferenced with staff and legal counsel- on potential litigation (Subdivision (b) of Government Code Section 54956.9) 1 potential case.

The regular public meeting of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Authority Governing Board was called to order at 1:00 p.m., on June 05, 2019, in the Board Chambers located at 2222 "M" Street, Third Floor, Merced, California.

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL OF BOARD MEMBERS**

Board Members

Present: Bob Kelley- Chairman (Stevinson Water District)  
Nic Marchini- Vice-Chair (Western White Area Representative)  
Kole Upton- (Le Grand-Athlone Water District)  
Michael Gallo- (Eastern White Area Representative)  
Supervisor Lloyd Pareira- (Merced County)  
George Park- (Lone Tree Mutual Water Company)

Board Members

Absent: None

Staff Present:

Steven Maxey, Acting Secretary  
Ana Muniz-Laguna, Recording Secretary  
Lacey Kiriakou, Merced County Water Resources Coordinator

**IV. PUBLIC COMMENT PERIOD**

None

**V. APPROVAL OF MINUTES**

Chairman Kelley suggested a correction to the minutes in paragraph XI- COMMENTS FROM THE BOARD, third sentence, to change the word 'salts' to the word 'solids'. The corrected sentence reads: "Chairman Kelley stated that part of the undesirable results involved total dissolved solids, but other water quality issues were not a part of the groundwater management criteria". Chairman Kelley clarified that it is not the intent to ignore other contaminants, but there are currently regulatory programs in place to address contaminants such as nitrates, arsenic, point source contamination and toxins. Salinity, however, is currently not being regulated to which the Groundwater Sustainability Agency (GSA) will address in the Groundwater Sustainability Plan (GSP).

**MOTION: M/S MARCHINI- PAREIRA, AND CARRIED BY A VOTE OF 6 – 0, THE BOARD APPROVES THE MINUTES FROM THE APRIL 11, 2019 MEETING WITH PROPOSED CHANGES.**

**VI. PROJECT TO MODEL DEMAND REDUCTION**

Action to approve a project submission to the GSP that forecasts how the Merced Subbasin GSA will meet a lower pumping allocation and reduce demand. Project is for modeling purposes in the GSP.

Ms. Lacey Kiriakou informed that the GSA will need to consider projects and management actions that both increase supply and reduce demand to meet the lower allocation amount by 2040. Ms. Kiriakou related that in April's Governing Board meeting, a presentation was made to the GSA on the demand reduction necessary to meet the sustainable allocation by 2040 and the GSA Board provided direction for a plan with a linear reduction. She stated the project being proposed is a management action that could be included in the Groundwater Sustainability Plan which will demonstrate how the Merced Subbasin GSA has considered demand reduction as a management action to achieve 2040's sustainable yield and to model a proposed management action that decreases demand by approximately 10,000-acre feet per year on a linear basis.

Chairman Kelley suggested the possibility of a funding program that might aid in the reduction of groundwater use by incentivizing those that decide to fallow their land and gain a financial reward via a funding mechanism. Chairman Kelley stated that other subbasins are considering this as an alternative to reduce groundwater use and stated that this concept may be considered through a Proposition 218 process and those that chose to participate would be included in this type of program.

Board member Marchini asked to clarify if the action item was a model to demand reduction or a type of program and Ms. Kiriakou clarified it was a management action that would go into the GSP model as an activity project to decrease reduction. Ms. Kiriakou explained this was not approving the implementation of a program and the implementation would be decided on by the GSA Board at a future time.

Mr. Eric Swenson, Engineer for Shannon Pump Company, addressed the Board and proposed that the Board may not be in a position to implement the demand reduction in pumping until 2025 as it would take about 5 years to update the model and collect information on wells and extraction rates. Mr. Swenson suggested that in formulating the GSP it should state that the starting point 2025 of actual modeling would be around 2025 of actual reductions.

Supervisor Pareira asked if this item proposes to approve an allocation and Ms. Kiriakou informed that this action item is not to set an allocation for project, it's to approve the language as a management action to the GSP.

**MOTION: M/S PAREIRA- GALLO, AND CARRIED BY A VOTE OF 6-0, THE BOARD APPROVES THE INCLUSION OF THE PROJECT TO MODEL DEMAND REDUCTION IN THE GSP AS A POSSIBLE MANAGEMENT ACTION OF THE MERCED SUBBASIN GSA.**

**VII. FY 2019-2020 BUDGET**

Action to approve the Fiscal Year 2019-2020 proposed budget.

Ms. Kiriakou informed that the Merced that the Merced Subbasin GSA Joint Powers Authority Agreement requires the Governing Board to approve a new operating budget at the beginning of each fiscal year. She stated the proposed budget for fiscal year 2019-2020 will fund the anticipated GSA administrative expenses, including staffing, legal counsel, engineering expenses, and office expenses. Ms. Kiriakou related how the GSA currently does not have an agreement with the County of Merced for reimbursement of staff time but she anticipates a memorandum of understanding between the GSA and Merced County for administrative services in the near future. Ms. Kiriakou informed that a significant portion of the GSP development expenses anticipated in FY2018-2019 have not been expended and that Merced Irrigation District has only invoiced the Merced Subbasin GSA \$82,149 of the \$470,000 anticipated in the FY 18-19 budget. Additional budgeted expenses for the GSP include monitoring and implementation which will start after GSP submission in January. Included in the services is funding to complete the Proposition 218 proceeding, hydrology and modeling updates to start updating the Merced Water Resources Model, annual report, five-year update preparation, meeting administration, and project development. The proposed budget anticipates a Proposition 218 landowner fee in order to fund the required revenue in the budget. Should the Proposition 218 landowner fee not be approved; the budget would need to be funded through member agency contributions.

No Public Comment.

**MOTION: M/S PARK- GALLO, AND CARRIED BY A VOTE OF 6-0, THE BOARD APPROVES THE FISCAL YEAR 2019-2020 PROPOSED BUDGET.**

**VIII. PROPOSITION 218 FEE STUDY**

Action to approve the Fee Study Report from Provost & Pritchard on the Merced Subbasin GSA landowner fee for SGMA compliance. Additional action to set the public hearing for July 23, 2019 and mail notices to landowners.

Mr. Joe Hopkins with Provost and Pritchard, presented to the Board an update on Landowner Fee for SGMA Compliance. Mr. Hopkins went over completed steps, gave a public meeting recap, went over the fee study and advised on next steps and upcoming public hearing process for implementation. Mr. Hopkins related that the completed steps were that the Board gave approval to move forward with the 218 Process in March of 2019 and subsequently had two public outreach meetings, one in Planada on April 17, 2019 and another in Atwater on April 24, 2019 which helped gather information, hear concerns and finalize a rate study in late May of 2019. Mr. Hopkins discussed aspects of the fee study and summarized projected budgets, exempted acres, fee sliding scale, member agency payment option, and State Water Resources Control Board (SWRCB) alternatives. Mr. Hopkins discussed next steps to move forward in Prop. 218 Process and went over upcoming tasks which included a Board meeting to adopt the rate study on June 5, 2019, public hearing notices to be mailed to begin the 45-day notification process on June 7, 2019, a 'majority protest' public hearing and fee approval consideration on July 23, 2019, and submission for inclusion on tax bill on August 16, 2019.

Ms. Kiriakou pointed out that there was an update on the Table located on page 3 of the Executive Summary packet and this correction will be reflected on the website. Ms. Kiriakou also informed that staff is working with the Assessor's office on obtaining a list of current addresses for all of the APNs in the Merced Subbasin GSA in the case of mailing approval by the GSA. Update was given that the GSA's Technical and Advisory Committee (TAC) reviewed the Prop. 218 Process and provided comments and concerns that the maximum budget of \$750,000 may be too low and may be expended too quickly. The TAC expressed interest in an economic analysis of the assessed value of irrigated acres vs rangeland acres in discussing the fee that all acres would pay and premium that irrigated acres would pay.

Ms. Kiriakou clarified that this fee being proposed would be used for administration and operation of the GSA, any GSP development and implementation, and feasibility studies, but not include specific projects or construction. The minimum

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SUSTAINABILITY AGENCY  
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proposed budget is \$460,000 for FY 2019-2020 and the GSA approved an amount of \$390,000 the first year, therefore proposed fee would be less than .31 cents for all acres and 2.17 premium for irrigated agricultural land.

Board member Pareira asked about the 1:7 ratio information provided in the study session and was concerned that the ratios are not consistent with a 1:8 irrigated/ non-irrigated ratio for payment. Board member Marchini answered that the ratios were approved in a way that non-irrigated and Irrigated land ends up being more of a 1:8 ratio in total which is still equitable for rangeland. Ms. Kiriakou informed that the ratios have been consistent with numbers provided in March 2019 and information relayed to the public.

Board member Gallo asked what agency would be in charge of collecting fees and who would be in charge of managing the funds once collected. Ms. Kiriakou related that fee collection and action would be performed by the Merced County Tax Collector via a property tax bill and funds would be distributed to the GSA for management. Parcels not included in the tax the bill would be those in the Lone Tree Mutual Water Company and those in the Sandy Mush Mutual Water Company, as those agencies would pay the sum total of landowners in their district. Landowners in these water companies will participate in the Prop 218 process and the GSA would be able to collect fees directly from landowners in future if the water companies choose not to continue to pay the fees directly. The Le Grand-Athlone Water District has agreed to pay the fee for all landowners their district and has chosen not to participate in the Prop 218 process given that the LeGrand Athlone Water District already approved their own Prop. 218 process. The GSA would not be able to collect the fees directly from those landowners in the future as they will not be participating in the Prop. 218 process. Board member Gallo asked if there is an opportunity for the County Tax Collector to invest these funds and reinvest it and Ms. Kiriakou advised that the Tax Collector would have that opportunity as they would transfer the money to the GSA once it's been collected, the County is the treasurer for the GSA.

Board member Marchini asked what the process would be if the GSA chooses another fee collection mechanism in the future and Mr. Hopkins replied that they would simply hold another Prop. 218 process on the adoption of a new fee structure at that time.

Board member asked if the GSA funds managed by County Auditor's office earn any interest and Ms. Kiriakou responded that there is a minimal amount collected and that the GSA has the ability to direct any of these surplus funds.

**MOTION: M/S PARK- MARCHINI, AND CARRIED BY A VOTE OF 6-0, THE BOARD APPROVES TO APPROVE AND ACCEPT THE FEE STUDY.**

**MOTION: M/S MARCHINI- GALLO, AND CARRIED BY A VOTE OF 6-0, THE BOARD APPROVES TO SET A PUBLIC HEARING ON THE PROPOSED FEES; AND AUTHORIZE A PROPOSITION 218 EFFORT TO MAIL (i)**

**NOTICES TO LANDOWNERS SUBJECT TO THE FEE INFORMING THEM OF  
THE PROPOSED FEES (ii) INSTRUCTIONS FOR PROTEST.**

**IX. COORDINATION COMMITTEE UPDATE**

Chairman Kelley updated that Coordination Committee continues to meet once a month to further develop the GSP and stated that GSP development is close to completion in addressing all the sections of the SGMA process. Chairman Kelley stated the Coordination Committee was moving towards a completed draft later in the month with one of the discussions for the group the groundwater allocation framework. He stated that at the he was concerned about the progress of the GSP at the last Coordination Committee meeting as members of other GSA's made comments on how this GSA should allocate groundwater. Chairman Kelly stated that what was agreed to a previous meeting was an Allocation of Sustainable Yield as a proportional basis between GSAs. What was suggested at the last coordination Committee meeting by other GSA's is undeveloped sustainable yield to be nontransferable within GSA's and locked up for movement. Chairman Kelley also stated that there were differences of opinion on percolation of surface water credits for extraction of groundwater.

Ms. Kiriakou summarized that in the Coordination Committee in March 2019 there was unanimous agreement to the Allocation Framework. The agreements were to identify sustainable yield for entire basin, remove canal seepage, remove appropriated use of the cities using a 10-year historic average use and the remainder of the sustainable yield would be divided by all GSAs geographically by acreage. Ms. Kiriakou stated that the April 2019 minutes from the March's meeting reflected an agreement by all members. Ms. Kiriakou stated that representatives from the Merced Irrigation Urban GSA (MIGUSA) asked that terms be defined in the framework in the April Coordination Committee meeting and in the May meeting MIUGSA suggested no credits transfer from undeveloped to developed acres. Ms. Kiriakou further reported that following the May meeting, there were edits made in the Projects and Management Actions GSP chapter that included a redefinition to developed supply of water including, canal seepage and deep percolation of supplied surface water.

Chairman Kelley stated that the GSP can move forward without the allocation framework in the case that members do not agree but clarified that agreement on allocation is crucial for GSP. He asked if the GSA would like to send a response letter stating what the GSA understood was agreed upon.

Mr. Eric Swenson addressed the Board and stated he suggested at the Coordination Committee meeting that terms being used in discussions are not well defined and members are interpreting the terms differently. Mr. Swenson suggested that different scenarios be described and explained to get an idea on how wordage would affect the different scenarios. His proposal is for scenarios to be developed between the various GSAs and have attorneys come up with draft language to support the scenarios legally.

Mr. Swenson suggested that the Technical and Advisory Committee can help come up with the scenarios at a special meeting.

Board member Marchini stated that he agreed to drafting a proposal letter reexplaining the GSA's position and how they understood it as a fair agreement and disbursement among every acre in the basin.

Board member Park suggested that the letter be addressed to MIGUSA and other member agencies that make up MIGUSA.

Mr. Brad Samuelson commented that the Coordinating Committee needs cleaner written records to respond to in the minutes.

Mr. Gino Pedretti addressed the Board and urged that time is of the essence in regards to the GSP process and this matter should be addressed sooner rather than later.

Board member Gallo stated that due to time being of essence we need to have letter drafted and should have a committee of Board members approve it, to avoid having another GSA meeting to finalize the letter.

Board member Kelley asked for clarification as to who the letter should be addressed to and what statement the letter should contain.

Board member Park suggested the letter be addressed to MIGUSA and all elected officials in the agencies.

Board member Pareira agreed that eventually inclusion of all the elected officials might need to be included, but the initial letter should only be sent to MIGUSA as a response to the negotiation agreements and their attempt to include something else, then if that doesn't get a favorable response, others can be included. He suggested the GSA attorneys help draft a letter and aid on format.

Ms. Jeanne Zolezzi, attorney with Herum Crabtree, gave input on possible wording and would aid in a letter stating that the GSA would like to move forward with the progress of the GSP and allocations can be discussed and negotiated at a later time.

Mr. Swenson commented that further definition is needed regarding what water allocations people have on property that they own and definition is needed as to how this allocation can be used.

**MOTION: M/S PARK- GALLO, AND CARRIED BY A VOTE OF 6-0, THE BOARD APPROVES A MOTION TO DIRECT STAFF TO WORK WITH ATTORNEYS AND CONSULTANTS IN DRAFTING A LETTER TO MIGUSA IN RESPONSE TO COMMENTS MADE AT THE COORDINATING COMMITTEE REGARDING ALLOCATIONS AND THE AGREEMENT THE COORDINATING COMMITTEE HAD PREVIOUSLY REGARDING ALLOCATIONS. COMMITTEE OF BOARD MEMBERS KELLEY, MARCHINI AND PAREIRA TO APPROVE LETTER PRIOR TO SENDING.**

**X. TECHNICAL AND ADVISORY COMMITTEE UPDATE**

The Board discussed the option of scenarios for how the allocation of groundwater would proceed on an individual basis and input from the Technical and Advisory Committee in helping develop the scenarios. Chairman Kelley along with Board members Park and Marchini agreed that the TAC could help in developing scenarios for how allocation would proceed on an individual basis and developing scenarios within the GSA, including the following land program Chairman Kelley suggested.

Ms. Kiriakou informed that the TAC has been continuously meeting and have been helpful in providing feedback on allocation framework projects and gathering ideas for projects. The TAC has provided feedback on landowner fees and agreed with linear reduction proposed by the GSA. Ms. Kiriakou stated that she will help coordinate meet the scenarios suggested earlier as an agenda item for future meetings.

**XI. STAFF UPDATE**

None

**XII. COMMENTS FROM THE BOARD**

None

**XIII. NEXT REGULAR MEETING**

July 11, 2019 at 2:00pm.

**XIV. ADJOURNMENT**

There being no further business, the meeting adjourned at 2:18 p.m.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: JULY 11, 2019**

**SUBJECT: LEGAL COUNSEL CONTRACT EXTENSION**

**SUMMARY:**

The Merced Subbasin GSA has been working with Jeanne Zolezzi and Karna Harrigfeld from the Office of Herum Crabtree Suntag for legal support services. The original contract with Herum Crabtree Suntag was executed in August 2017 for the term of one year and for the contract not to exceed amount of \$100,000. The contract was extended in August 2018 for an additional year, with no change to the compensation.

Over the past two years Zolezzi and Harrigfeld have been providing valuable legal counsel on subjects such as GSP development, Water Allocation Framework, Proposition 218 proceeding for landowner fee, Brown Act compliance, and other legal support services for the GSA. The remaining amount on the contract is approximately \$34,000, and over \$66,000 has been invoiced and paid on this contract over the past two years.

This item requests Board consideration of an amendment to the contract with Herum Crabtree Suntag to extend the term of the agreement for another year through August 2020 and to add approximately \$66,000 to the contract, bringing the not to exceed amount of the contract to \$100,000 starting in August 2019. This amount allows legal services to remain consistent, and anticipates unknown legal expenses that may occur after GSP implementation starts. It is not anticipated that the GSA would spend the entire contract amount in FY2019-2020. The contract would be brought before the GSA next summer to extend the term again, should the Board choose.

**REQUEST/RECOMMENDATION/ACTION NEEDED:**

Approve and authorize the Chairman to sign an amendment to Contract 2017-01 with Herum Crabtree, Suntag to extend the term of contract for legal services for one year and to amend the compensation to not exceed \$100,000.

**SECOND AMENDMENT  
TO  
CONTRACT NO. 2017-01  
BETWEEN  
MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY  
AND  
HERUM CRABTREE SUNTAG**

THE SECOND AMENDMENT TO CONTRACT NO. 2017-01 for Special Services to the to the Merced Subbasin Groundwater Sustainability Agency (GSA) is made and entered into by and between the Merced Subbasin GSA, a joint powers authority of the State of California, (hereinafter referred to as "GSA"), and Herum Crabtree Suntag, a California Professional Corporation, located at 5757 Pacific Avenue, #222, Stockton, CA 95207 (hereinafter referred to as "CONSULTANT").

WHEREAS, the parties entered into a contract for special services on August 18, 2017 to perform special services which consist of general counsel legal services including public agency governance and water law; and,

WHEREAS, the GSA and CONSULTANT approved a First Amendment to Contract No. 2017-01 to amend Section 2, entitled "TERM", for one year; and

WHEREAS, the GSA and CONSULTANT in this Second Amendment desire to amend Section 2, entitled "TERM," of that contract and Section 3, entitled "COMPENSATION"; and,

WHEREAS, this Second Amendment is hereby annexed to and made part of the printed part of the Agreement to which it is attached, or modifies the existing Agreement between the parties. In each instance in which the provisions of this Amendment shall contradict or be inconsistent with the provisions of the printed portion of the original Agreement, the provisions of this Second Amendment shall prevail and govern and the contradicted or inconsistent provisions shall be deemed amended accordingly. Both parties agree that there is new and adequate consideration for this Second Amendment.

NOW, THEREFORE, in consideration of the mutual covenants and promises herein contained, the parties hereby agree to the following amendments to the contract:

**MODIFICATIONS:**

1) Section 2, entitled "TERM" is amended to read as follows:

The term of this Agreement shall commence on the 20<sup>th</sup> day of July 2017 and continue until the 1st day of August, 2020, unless sooner terminated in accordance with the sections entitled "TERMINATION FOR CONVENIENCE" or "TERMINATION FOR CAUSE" as specified elsewhere in this Agreement.

2) Section 3, entitled "COMPENSATION" is amended to read as follows:

GSA agrees to pay CONSULTANT an hourly rate for time according to the Standard Billing Rates specified in EXHIBIT C, as it may be amended from time to time upon prior written notice to GSA, for hours actually engaged in the performance of such work, as are more specifically set forth under Section "SCOPE OF SERVICES", whether said work be performed at GSA premises or elsewhere, but such compensation shall not be paid for time necessary to travel from CONSULTANT'S location to GSA premises. This fee includes, but is not limited to, CONSULTANT'S time on-site, preparation time associated with this Agreement, and all out-of-pocket expenses. No other fees or expenses of any kind shall be paid to CONSULTANT in addition to those rates or expenses listed herein. In no event shall the total services to be performed by CONSULTANT hereunder exceed a Total Contract Price of \$100,000.00.

Except as herein modified, all terms and conditions in said Agreement as heretofore approved remain unchanged and in full force and effect.

GSA:  
Merced Subbasin GSA

CONSULTANT:  
Herum Crabtree Suntag

\_\_\_\_\_  
Bob Kelley  
Chairman

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: JULY 11, 2019**

**SUBJECT: PROVOST AND PRITCHARD PROPOSITION 218 CONTRACT  
EXTENSION**

**SUMMARY:**

The Merced Subbasin GSA executed a contract with Provost and Pritchard Engineering Group in July 2018 to provide technical and engineering support for the Proposition 218 proceeding. The contract with Provost and Pritchard is in the amount not to exceed \$75,000 and includes the completion of a Fee Study Report, public workshops, outreach, and support during the public hearing for the Proposition 218 proceeding.

The original term of the contract anticipated that the Proposition 218 proceeding would be completed within the year and is set to expire on July 12, 2019. This item requests the Board's approval of an amendment to the contract which extends the contract through the end of 2019 to allow Provost and Pritchard consultants to continue providing support services through the final stages of the Proposition 218 proceeding. The public hearing is scheduled for July 23, 2019, where Provost and Pritchard will assist with documenting the protests, noticing the public hearing and supporting the GSA Board.

The amendment only extends the contract term, all other elements of the contract remain the same.

**REQUEST/RECOMMENDATION/ACTION NEEDED:**

Approve and authorize the Chairman to sign the amendment to Contract 2018-02 with Provost and Pritchard Engineering Group, Inc. to continue to provide engineering, technical and professional services related to the Proposition 218 proceeding through 2019.

**AMENDMENT  
TO  
CONTRACT NO. 2018-02  
BETWEEN  
MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY  
AND  
PROVOST AND PRITCHARD ENGINEERING GROUP, INC.**

THIS Amendment to Contract No.2018-02 is executed by and between the Merced Subbasin Groundwater Sustainability Agency, a California Joint Powers Authority, (hereinafter called "GSA"), and Provost and Pritchard Engineering Group, Inc. (hereinafter called "CONSULTANT").

This Amendment is hereby annexed to and made a part of the printed part of the Agreement to which it is attached, or modifies the existing Agreement between the parties. In each instance in which the provisions of this Amendment shall contradict or be inconsistent with the provisions of the printed portion of the original Agreement and any previous amendments, the provision of this Amendment shall prevail and govern and the contradicted or inconsistent provisions shall be deemed amended accordingly. Both parties agree that there is new and adequate consideration for this Amendment.

This Amendment shall be deemed to have been duly approved when executed by both parties to the original Agreement. Once duly approved, this Amendment shall become effective as of the date signed by the Chairman of the Merced Subbasin Groundwater Sustainability Agency Governing Board.

**MODIFICATIONS:**

- 1). Section 2, entitled "TERM", is amended to read as follows:

The term of this Agreement shall commence on the 12<sup>th</sup> day of July, 2018, and continue until the 31<sup>st</sup> day of December, 2019, unless sooner terminated in accordance with the sections entitled "TERMINATION FOR CONVENIENCE" or "TERMINATION FOR CAUSE" as specified elsewhere in this Agreement.

Except as herein modified, all terms and conditions in said Agreement as heretofore approved remain unchanged and in full force and effect.

<b>Merced Subbasin Groundwater Groundwater Sustainability Agency</b>	<b>PROVOST AND PRITCHARD ENGINEERING GROUP, INC.</b>
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By: \_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: JULY 11, 2019**

**SUBJECT: WOODARD AND CURRAN PARCEL FEE MODEL MAINTENANCE CONTRACT**

### **SUMMARY:**

Through a contract executed by the Merced Subbasin GSA Governing Board in July 2018, the consultant firm Woodard and Curran, Inc. developed a Parcel Fee Model to support the proposed landowner fee for SGMA compliance. The former contract for developing the Parcel Fee Model has been completed with the final model, technical memo and reports provided to the Merced Subbasin GSA for use during the Proposition 218 proceeding.

This item requests the Board's consideration of a new contract with Woodard and Curran to provide maintenance and updating services for the Parcel Fee Model annually, contingent upon the landowner fee being approved. It will be necessary for the Parcel Fee Model to be updated each year with new parcel and land use data from the County of Merced, to ensure the landowner fee is being applied appropriately to the parcels in the Merced Subbasin GSA's management area. The effort to update and maintain the model is minimal at approximately \$4,000 to \$7,000 annually, with a not to exceed amount of \$26,482. This contract provides support from Woodard and Curran to the GSA for the first five years of implementing the landowner fee.

Approval by the Board of this item is contingent upon the landowner fee being adopted after the scheduled public hearing on July 23, 2019. The GSA is following the Proposition 218 requirements and will hold a public hearing and a protest vote on the landowner fee. Should a majority of parcels submit protests to the fee, the fee would not be adopted by the Merced Subbasin GSA Board and this contract would not be executed.

### **REQUEST/RECOMMENDATION/ACTION NEEDED:**

Approve and authorize the Chairman to sign, contingent upon the adoption of the proposed landowner fee for SGMA compliance after the July 23, 2019 public hearing, a contract with Woodard and Curran, Inc. to provide technical services to annually update and maintain the Parcel Fee Model to support the proposed landowner fee.

## **AGREEMENT FOR SPECIAL SERVICES**

### **MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY CONTRACT NO. 2019-01**

**THIS AGREEMENT** is made and entered into this by and between the Merced Subbasin Groundwater Sustainability Agency (hereinafter referred to as "GSA"), and Woodard & Curran, Inc., located at 1545 River Park Drive, Suite 425, Sacramento, CA 95815 (hereinafter referred to as "CONSULTANT").

**WHEREAS**, GSA desires to contract with CONSULTANT for special services which consist of special services which consist of engineering and technical assistance specifically listed in Section 1; and

**WHEREAS**, CONSULTANT is specially trained, experienced, and competent to perform such services in connection with supporting the maintenance of a parcel fee model to support the Merced Subbasin Groundwater Sustainability Plan Development and implementation; and

**WHEREAS**, the parties desire to set forth herein the terms and conditions under which the Services shall be furnished.

**NOW, THEREFORE**, in consideration of the mutual covenants and promises herein contained, the parties hereby agree as follows:

1. **SCOPE OF SERVICES** CONSULTANT shall provide engineering, technical, and professional services in accordance with the terms and conditions stated herein, and any specifically referenced attachments hereto. CONSULTANT'S services include, but are not limited to, the following:

- A. CONSULTANT will provide technical support to the GSA by maintaining and updating the Merced Subbasin Parcel Fee Model (Model) on an as-needed basis. This may include the following activities:
  - a. Compile updated County Assessor's Roll data and other parcel data
  - b. Perform geospatial analysis to locate and identify parcels within the Subbasin
  - c. Load updated parcel information into the Model
  - d. Make minor updates to the Model based on data revisions, as needed
  - e. Perform quality control on Model results
  - f. Create exports for parcel addresses or different funding scenarios, as needed
- B. The Assessor's Roll and other County data, including updated GIS shapefiles, will be provided by the GSA to CONSULTANT.

The following exhibits are specifically incorporated by reference, attached hereto, and made a part hereof, except when in conflict with this Agreement or modified herein:

Exhibit A – Fee Estimate  
Exhibit B – 2019 Standard Rates

2. **TERM.** The term of this Agreement shall commence on the 23<sup>th</sup> day of July, 2019, and continue until the 31<sup>st</sup> day of December, 2023, unless sooner terminated in accordance with the sections entitled “TERMINATION FOR CONVENIENCE” or “TERMINATION FOR CAUSE” as specified elsewhere in this Agreement.

3. **COMPENSATION.** GSA agrees to pay CONSULTANT an hourly consistent with rates specified in Exhibit B 2019 Standard Rates, for hours actually engaged in the performance of such work, as are more specifically set forth under Section “SCOPE OF SERVICES”, whether said work be performed at GSA premises or elsewhere, but such compensation shall not be paid for time necessary to travel from CONSULTANT’S location to GSA premises. This fee includes, but is not limited to, CONSULTANT’S time on-site, preparation time associated with this Agreement, and all out-of-pocket expenses. No other fees or expenses of any kind shall be paid to CONSULTANT in addition to those rates or expenses listed herein. In no event shall the total services to be performed by CONSULTANT hereunder exceed a Total Contract Price of \$26,482.00. This fee may be subject to withholding for State of California income tax.

Any and/or all payments made under this Agreement shall be paid by check, payable to the order of the CONSULTANT and be mailed to CONSULTANT at:

Name: Woodard & Curran, Inc.  
Address: 1545 River Park Drive, Suite 425  
City/State/Zip: Sacramento, CA 95815

CONSULTANT may request that GSA mail the check to CONSULTANT to such other address as CONSULTANT may from time to time designate to GSA. Such request must be made in writing in accordance with the procedures as outlined under Section “NOTICES”.

4. **PRICING CONDITIONS.** GSA agrees to pay Consultant for all services required herein as prescribed, fixed at the submitted pricing, which shall include reimbursement for all expenses incurred. No other expenses shall be paid to Consultant without formal approval of the GSA’s Board of Directors or its authorized agent. In no event shall the total services to be performed hereunder exceed \$26,482.00.

GSA shall not be responsible for any charges or expenses incurred by Consultant, his/her agents, employees or independent contractors, other than those listed herein, in connection with the performance of services hereunder unless authorized in advance in writing by GSA.

5. **TERMS OF PAYMENT.** Payment shall be only for full and complete satisfactory performance of the services required to be provided herein and as set forth under Section "SCOPE OF SERVICES." Payment shall be made in the following manner:

CONSULTANT shall submit monthly itemized invoices, or alternate documentation as deemed appropriate in advance by GSA, for services it has provided and for the amount owed under this Agreement. In addition to the invoices submitted by the CONSULTANT for payment, CONSULTANT must complete and submit to the GSA, Form W-9, "A Request for Taxpayer Identification Number and Certification" ([www.irs.gov/pub/irs-pdf/fw9.pdf](http://www.irs.gov/pub/irs-pdf/fw9.pdf)). Both invoices and the W-9 form shall be forwarded to the GSA at the GSA address indicated under Section "NOTICES" of this Agreement.

Each invoice or approved alternate documentation must:

- A. Detail by task the service performed by CONSULTANT.
- B. Detail the labor cost (number of hours) attributed to each task.
- C. Show the cumulative cost for all tasks performed to date.
- D. Provide any additional information and data requested by GSA as deemed necessary by GSA to properly evaluate or process CONSULTANT'S claim.

Upon approval by GSA, the fee due hereunder shall be paid to CONSULTANT within thirty (30) days following receipt of a proper invoice.

6. **NO PAYMENT FOR SERVICE PROVIDED FOLLOWING EXPIRATION/TERMINATION OF AGREEMENT.** CONSULTANT shall have no claim against GSA for payment of any kind whatsoever for any services provided by CONSULTANT which were provided after the expiration or termination of this Agreement.

7. **NOTICES.** All notices, requests, demands or other communications under this Agreement shall be in writing. Notice shall be sufficiently given for all purposes as follows:

- A. **Personal Delivery.** When personally delivered to the recipient, notice is effective upon delivery.
- B. **First Class Mail.** When mailed first class to the last address of the recipient known to the party giving notice, notice is effective three mail delivery days after deposit in a United States Postal Service office or mailbox.
- C. **Certified Mail.** When mailed by certified mail, return receipt requested, notice is effective upon receipt, if delivery is confirmed by a return receipt.

- D. Overnight Delivery. When delivered by an overnight delivery service, charges prepaid or charged to the sender's account, notice is effective on delivery, if delivery is confirmed by the delivery service.
- E. Facsimile Transmission. When sent by fax to the last fax number of the recipient known to the party giving notice, notice is effective upon receipt, provided that: a) a duplicate copy of the notice is promptly given by first class mail or certified mail or by overnight delivery, or b) the receiving party delivers a written confirmation of receipt. Any notice given by fax shall be deemed received on the next business day if received after 5:00 P.M. (recipient's time) or on a non-business day.

Any correctly addressed notice that is refused, unclaimed or undeliverable because of an act or omission of the party to be notified shall be deemed effective as of the first date that the notice was refused, unclaimed or deemed undeliverable by the postal authorities, messengers or overnight delivery service. Information for notice to the parties to this Agreement at the time of endorsement of this Agreement is as follows:

Merced Subbasin GSA c/o	Consultant
Merced County Community and	Woodard & Curran, Inc.
Economic Development	1545 River Park Drive, Suite 425
2222 M Street	Sacramento, CA 95815
Merced, CA 95340	

Any party may change its address or fax number by giving the other party notice of the change in any manner permitted by this Agreement.

8. **CONDITION SUBSEQUENT/NON-APPROPRIATION OF FUNDING.** The compensation paid to CONSULTANT pursuant to this Agreement is based on GSA'S continued appropriation of funding for the purpose of this Agreement, as well as the receipt of local, county, state and/or federal funding for this purpose. The parties acknowledge that the nature of government finance is unpredictable, and that the rights and obligations set forth in this Agreement are therefore contingent upon the receipt and/or appropriation of the necessary funds. In the event that funding is terminated, in whole or in part, for any reason, at any time, this Agreement and all obligations of the GSA arising from this Agreement shall be immediately discharged. GSA agrees to inform CONSULTANT no later than ten (10) calendar days after the GSA determines, in its sole judgment, that funding will be terminated and the final date for which funding will be available. Under these circumstances, all billing or other claims for compensation or reimbursement by CONSULTANT arising out of performance of this Agreement must be submitted to GSA prior to the final date for which funding is available. In the alternative, GSA and CONSULTANT may agree, in such circumstance, to a suspension or modification of either party's rights and obligations under this Agreement. Such a modification, if the parties agree thereto, may permit a restoration of previous contract terms in the event funding is reinstated. Also in the alternative, if funding is provided to the GSA in the form of promises to pay at a later date, whether referred to as "government warrants", "IOU's," or by any other name, the GSA may, in

its sole discretion, provide similar promises to pay to the CONSULTANT, which the CONSULTANT hereby agrees to accept as sufficient payment until cash funding becomes available.

9. **TERMINATION FOR CONVENIENCE.** This Agreement, notwithstanding anything to the contrary herein above or hereinafter set forth, may be terminated by GSA at any time without cause or legal excuse by providing the other party with thirty (30) calendar days written notice of such termination. Upon effective date of termination, GSA shall have no further liability to CONSULTANT except for payment for actual services incurred during the performance hereunder. Such liability is limited to the time specified in said notice and for services not previously reimbursed by GSA. Such liability is further limited to the extent such costs are actual, necessary, reasonable, and verifiable costs and have been incurred by CONSULTANT prior to, and in connection with, discontinuing the work hereunder.

10. **TERMINATION FOR CAUSE.** The GSA may terminate this Agreement for and be relieved of any making any payments to CONSULTANT, and all duties to CONSULTANT should the CONSULTANT fail to perform any material duty or obligation of the Agreement. Notice shall be given as otherwise provided herein. In the event of such termination the GSA may proceed with the work in any manner deemed proper by the GSA. All costs to the GSA shall be deducted from any sum otherwise due the CONSULTANT and the balance, if any, shall be paid to the CONSULTANT upon demand. Such remedy is in addition to such other remedies as may be available to the GSA provided by law.

11. **MODIFICATION OF THE AGREEMENT.** Notwithstanding any of the provisions of this Agreement, the parties may agree to amend this Agreement. No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties hereto. No oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

12. **INSURANCE.**

A. Prior to the commencement of work, and as a precondition to this contract, CONSULTANT shall purchase and maintain the following types of insurance for the stated minimum limits indicated during the term of this Agreement. CONSULTANT shall provide a certificate of insurance and endorsements naming GSA as an additional insured on each policy except Workers Compensation. The insurance carrier shall be required to give GSA notice of termination at least 10 days prior to the intended cancellation of any specified policy. Each certificate of insurance shall specify if CONSULTANT has a self-insured retention (“SIR”), and if so, CONSULTANT shall be required to provide the entire policy of insurance with which it has a SIR and/or deductible.

1. Commercial General Liability: \$1,000,000 per occurrence and \$2,000,000 annual aggregate covering bodily injury, personal injury and property damage. The GSA and its

officers, employees and agents shall be endorsed to above policies as additional insured, using ISO form CG2026 or an alternate form that is at least as broad as form CG2026, as to any liability arising from the performance of this Agreement.

2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage, or alternatively split limits of \$500,000 per person and \$1,000,000 per accident for bodily injury with \$250,000 per accident for property damage.

3. Workers Compensation: Statutory coverage, if and as required according to the California Labor Code, including Employers' Liability limits of \$1,000,000 per accident. The policy shall be endorsed to waive the insurer's subrogation rights against the GSA.

#### B. Insurance Conditions

1. Insurance is to be placed with admitted insurers rated by A.M. Best Co. as A:VII or higher. Lower rated, or approved but not admitted insurers, may be accepted if prior approval is given by the GSA.

2. Each of the above required policies shall be endorsed to provide the GSA with thirty (30) days prior written notice of cancellation. The GSA is not liable for the payment of premiums or assessments on the policy. No cancellation provisions in the insurance policy shall be construed in derogation of the continuing duty of CONSULTANT to furnish insurance during the term of this Agreement.

13. **INDEMNIFICATION.** CONSULTANT has the contracted duty (hereinafter "the duty") to indemnify, defend and hold harmless, GSA, its Governing Board, officers, employees, agents and assigns from and against any and all claims, demands, liability, judgments, awards, interest, attorney's fees, costs, experts' fees and expenses of whatsoever kind or nature, at any time arising out of or in any way connected with the performance of this Agreement, whether in tort, contract or otherwise. This duty shall include, but not be limited to, claims for bodily injury, property damage, personal injury, and contractual damages or otherwise alleged to be caused to any person or entity including, but not limited to employees, agents and officers of CONSULTANT. CONSULTANT'S liability for indemnity under this Agreement shall apply, regardless of fault, to any acts or omissions, willful misconduct or negligent conduct of any kind, on the part of the CONSULTANT, its agents, subcontractors and employees. The duty shall extend to any allegation or claim of liability except in circumstances found by a jury or judge to be the sole and legal result of the willful misconduct of GSA. This duty shall arise at the first claim or allegation of liability against GSA. CONSULTANT will on request and at its expense, defend any action suit or proceeding arising hereunder.

14. **INDEPENDENT CONTRACTOR.** It is mutually understood and agreed that CONSULTANT is an independent contractor in the performance of the work duties and obligations devolving upon CONSULTANT under this Agreement. GSA shall neither have, nor

exercise any control or direction over the methods by which CONSULTANT shall perform the assigned work and functions. The contractual interest of GSA is to assure that the services covered by this Agreement shall be performed and rendered in a competent, efficient and satisfactory manner. It is agreed that no employer-employee relationship is created and CONSULTANT shall hold GSA harmless and be solely responsible for withholding, reporting and payment of any federal, state or local taxes any contributions or premiums imposed or required by workers' compensation; any unemployment insurance, social security, income tax, and any other obligations from statutes or codes applying to CONSULTANT, or its sub-contractors and employees, if any. It is mutually agreed and understood that CONSULTANT, its sub-contractors and employees, if any, shall have no claim under this Agreement or otherwise against the GSA for vacation pay, sick leave, retirement or social security benefits, occupational or non-occupational injury, disability or illness, or loss of life or income, by whatever cause. CONSULTANT shall insure that all its personnel and employees, sub-contractors and their employees, and any other individuals used to perform the contracted services are aware and expressly agree that GSA is not responsible for any benefits, coverage or payment for their efforts.

15. **RECORDS, INFORMATION AND REPORTS.** CONSULTANT shall maintain full and accurate records with respect to all matters covered under this Agreement. To the extent permitted by law, the GSA shall have free access at all proper times or until the expiration of four (4) years after the furnishing of services to such records, and the right to examine and audit the same and to make transcripts therefrom, and to inspect all data, documents, proceedings, and activities pertaining to this Agreement. To the extent permitted by law, CONSULTANT shall furnish GSA such periodic reports as GSA may request pertaining to the work or services undertaken pursuant to this Agreement. The costs and obligations incurred or to be incurred in connection shall be borne by the CONSULTANT.

16. **OWNERSHIP OF DOCUMENTS.** To the extent permitted by law, all technical data, evaluations, plans, specifications, reports, documents, or other work products developed by Contractor hereunder are the exclusive property of GSA and upon request of GSA shall be delivered to GSA upon completion of the services authorized hereunder. In the event of termination, all finished or unfinished documents and other materials, if any, at the option of GSA, and to the extent permitted by law, shall become the property of the GSA. CONSULTANT may retain copies thereof for its files and internal use. Any publication of information directly derived from work performed or data obtained in connection with services rendered under this Agreement must be first approved by GSA.

17. **QUALITY OF SERVICE.** CONSULTANT shall perform its services with care, skill, and diligence, in accordance with the applicable professional standards currently recognized by such profession, and shall be responsible for the professional quality, technical accuracy, completeness, and coordination of all reports, designs, drawings, plans, information, specifications, and/or other items and services furnished under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in its reports, drawing, specifications, designs, and/or other related items or services.

19. **ENTIRE AGREEMENT.** This Agreement and any additional or supplementary document or documents incorporated herein by specific reference contain all the terms and conditions agreed upon by the parties hereto, and no other contracts, oral or otherwise, regarding the subject matter of this Agreement or any part thereof shall have any validity or bind any of the parties hereto.

20. **GSA NOT OBLIGATED TO THIRD PARTIES.** The GSA shall not be obligated or liable hereunder to any party other than CONSULTANT.

21. **LAWS, LICENSE, PERMITS AND REGULATIONS.** The CONSULTANT and the GSA agree to comply with all State laws and regulations that pertain to construction, health and safety, labor, fair employment practice, equal opportunity, and all other matters applicable to CONSULTANT and GSA, their subgrantees, contractors, or subcontractor, and their work. CONSULTANT shall possess and maintain all necessary licenses, permits, certificates and credentials required by the laws of the United States, the State of California, County of Merced and all other appropriate governmental agencies, including any certification and credentials required by GSA. Failure to maintain the licenses, permits, certificates, and credentials shall be deemed a breach of this Agreement and constitutes grounds for the termination of this Agreement by GSA.

22. **LIMITED EFFECT OF WAIVER OR PAYMENTS.** In no event shall the making, by the GSA, of any payment to CONSULTANT constitute, or be construed as, a waiver by the GSA of any breach of covenant, or any default which may then exist, on the part of CONSULTANT. The making of any such payment by the GSA while any such breach or default shall exist, shall not be construed as acceptance of substandard or careless work or as relieving CONSULTANT from its full responsibility under this Agreement. No waiver by either party of any default, breach or condition precedent shall be valid unless made in writing and signed by the parties hereto. No oral waiver of any default, breach or condition precedent shall be binding on any of the parties hereto. Waiver by either party of any default, breach or condition precedent shall not be construed as a waiver of any other default, breach or condition precedent, or any other right hereunder.

23. **PERSONNEL.** CONSULTANT represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. All of the services required hereunder will be performed by CONSULTANT or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

24. **APPLICABLE LAW; VENUE.** All parties agree that this Agreement and all documents issued or executed pursuant to this Agreement as well as the rights and obligations of the parties hereunder are subject to and governed by the laws of the State of California in all respects as to interpretation, construction, operation, effect and performance. No interpretation of any provision of this Agreement shall be binding upon GSA unless agreed in writing by GSA and

counsel for GSA. Notwithstanding any other provision of this Agreement, any dispute concerning any question of fact or law arising under this Agreement or any litigation or arbitration arising out of this Agreement, shall be tried in Merced County, unless the parties agree otherwise or are otherwise required by law.

25. **BREACH OF CONTRACT.** Upon breach of this Agreement by Contractor, GSA shall have all remedies available to it both in equity and/or at law.

26. **REMEDY FOR BREACH AND RIGHT TO CURE.** Notwithstanding anything else in this Agreement to the contrary, if CONSULTANT fails to perform any obligation of this Agreement, the GSA may itself perform, or cause the performance of, such agreement or obligation. In that event, CONSULTANT will, on demand, fully reimburse the GSA for all such expenditures. Alternatively, the GSA, at its option, may deduct from any funds owed to CONSULTANT the amount necessary to cover any expenditures under this provision. This is in addition to any other remedies available to the GSA by law or as otherwise stated in this Agreement.

27. **CONFLICT OF INTEREST.** CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of this Agreement. CONSULTANT shall ensure that no conflict of interest exists between its officers, employees, or subcontractors, and the GSA. CONSULTANT shall ensure that no GSA officer or employee, in a position in the GSA that enables them to influence this Agreement, will have any direct or indirect financial interest resulting from this Agreement. CONSULTANT shall ensure that no GSA employee shall have any relationship to the CONSULTANT or officer or employee of the CONSULTANT, nor that any such person will be employed by CONSULTANT in the performance of this Agreement without immediate divulgence or such fact to the GSA.

28. **NONDISCRIMINATION IN EMPLOYMENT, SERVICES, BENEFITS AND FACILITIES.** CONSULTANT and any subcontractors shall comply with all applicable federal, state, and local Anti-discrimination laws, regulations, and ordinances and shall not unlawfully discriminate, deny family care leave, harass, or allow harassment against any employee, applicant for employment, employee or agent of GSA, or recipient of services contemplated to be provided or provided under this Agreement, because of race, ancestry, marital status, color, religious creed, political belief, national origin, ethnic group identification, sex, sexual orientation, age (over 40), medical condition (including HIV and AIDS), or physical or mental disability. CONSULTANT shall ensure that the evaluation and treatment of its employees and applicants for employment, the treatment of GSA employees and agents, and recipients of services are free from such discrimination and harassment. CONSULTANT represents that it is in compliance with and agrees that it will continue to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Fair Employment and Housing Act (Government Code §§ 12900 et seq.), and regulations and guidelines issued pursuant thereto. CONSULTANT agrees to compile data, maintain records and submit reports to permit effective enforcement of all

applicable antidiscrimination laws and this provision. CONSULTANT shall include this nondiscrimination provision in all subcontracts related to this Agreement and when applicable give notice of these obligations to labor organizations with which they have Agreements.

29. **CAPTIONS.** The captions of each paragraph in this Agreement are inserted as a matter of convenience and reference only, and in no way define, limit, or describe the scope or intent of this Agreement or in any way affect it.

30. **SUBCONTRACTS – ASSIGNMENT.** CONSULTANT shall not subcontract or assign this Agreement, or any part thereof, or interest therein, directly or indirectly, voluntarily or involuntarily, to any person without obtaining the prior written consent by GSA. CONSULTANT remains legally responsible for the performance of all contract terms including work performed by third parties under subcontracts. Any subcontracting will be subject to all applicable provisions of this Agreement. CONSULTANT shall be held responsible by GSA for the performance of any subcontractor whether approved by GSA or not. Contractor hereby assigns to the GSA all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from the purchase of goods, materials, or services by the Contractor for sale to the GSA pursuant to this Agreement.

31. **SEVERABILITY.** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, unenforceable or invalid, in whole or in part, for any reason, the validity and enforceability of the remaining provisions, or portion of them, will not be affected. Compensation due to CONSULTANT from the GSA may, however, be adjusted in proportion to the benefit received despite the removal of the effected provision.

32. **DUPLICATE COUNTERPARTS.** This Agreement is executed in counterparts, each of which shall be deemed a duplicate original. The Agreement shall be deemed executed when it has been signed by both parties.

Merced Subbasin GSA

Woodard & Curran, Inc.

By \_\_\_\_\_  
Bob Kelley

By \_\_\_\_\_  
Name

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

# Fee Estimate

## Maintenance of the Merced Subbasin GSA Parcel Fee Model

Tasks	Jeanna Long	Chris Hewes	Desiree Hughart	Total Fee
	Senior Project Manager	Planner 3	Project Assistant	
<b>Year 1: Parcel Fee Model Maintenance (2019)</b>	<b>\$282.00</b>	<b>\$212.00</b>	<b>\$110.00</b>	
Collect information and update model	6	12	2	\$4,456
Provide technical support	4	8		\$2,824
Subtotal Year 1:	10	20	2	\$7,280
<b>Year 2: Parcel Fee Model Maintenance (2020)</b>	<b>\$290.46</b>	<b>\$218.36</b>	<b>\$113.30</b>	
Collect information and update model	6	12	2	\$4,590
Subtotal Year 2:	6	12	2	\$4,590
<b>Year 3: Parcel Fee Model Maintenance (2021)</b>	<b>\$299.17</b>	<b>\$224.91</b>	<b>\$116.70</b>	
Collect information and update model	6	12	2	\$4,727
Subtotal Year 3:	6	12	2	\$4,727
<b>Year 4: Parcel Fee Model Maintenance (2022)</b>	<b>\$308.15</b>	<b>\$231.66</b>	<b>\$120.20</b>	
Collect information and update model	6	12	2	\$4,869
Subtotal Year 4:	6	12	2	\$4,869
<b>Year 5: Parcel Fee Model Maintenance (2023)</b>	<b>\$317.39</b>	<b>\$238.61</b>	<b>\$123.81</b>	
Collect information and update model	6	12	2	\$5,015
Subtotal Year 5:	6	12	2	\$5,015
<b>TOTAL</b>	<b>34</b>	<b>68</b>	<b>10</b>	<b>\$26,482</b>



2019 Standard Rates	
Labor Category	Rate
Engineer 1 (E1) Scientist 1 (S1) Geologist 1 (G1) Planner 1 (P1) Technical Specialist 1 (TS1)	162
Engineer 2 (E2) Scientist 2 (S2) Geologist 2 (G2) Planner 2 (P2) Technical Specialist 2 (TS2)	187
Engineer 3 (E3) Scientist 3 (S3) Geologist 3 (G3) Planner 3 (P3) Technical Specialist 3 (TS3)	212
Project Engineer 1 (PE1) Project Specialist 1 (PS1) Project Geologist 1 (PG1) Project Planner 1 (PP1) Project Technical Specialist 1 (PTS1)	221
Project Engineer 2 (PE2) Project Specialist 2 (PS2) Project Geologist 2 (PG2) Project Planner 2 (PP2) Project Technical Specialist 2 (TS2)	236
Project Manager 1 (PM1) Technical Manager 1 (TM1)	251
Project Manager 2 (PM2) Technical Manager 2 (TM2)	266
Senior Project Manager (SPM) Senior Technical Manager (STM)	282
Senior Technical Practice Leader (STPL)	310
National Practice Leader (NPL) Strategic Business Unit Leader (SBUL)	320
Software Engineer 1 (SE1)	147
Software Engineer 2 (SE2)	170
Designer 1 (D1)	125
Designer 2 (D2)	155
Designer 3 (D3) Senior Software Developer (SSD)	160
Senior Designer (SD)	165
Project Assistant (PA)	110
Marketing Assistant (MA) Graphic Artist (GA)	118
Senior Accountant (SA) Senior Project Assistant Billing Manager (BM)	129
Marketing Manager (MM) Graphics Manager (GM)	149

Note: The individual hourly rates include salary, overhead and profit. Other direct costs (ODCs) such as reproduction, delivery, mileage (as allowed by IRS guidelines), and travel expenses will be billed at actual cost plus 10%. Subconsultants will be billed as actual cost plus 10%. Woodard & Curran, Inc., reserves the right to adjust its hourly rate structure at the beginning of each year for all ongoing contracts.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: JULY 11, 2019**

**SUBJECT: PARCEL LAND USE UPDATE PROCESS FOR LANDOWNER FEE**

### **SUMMARY:**

From time to time it is anticipated that land use codes associated with parcels (identified by APN) in the Merced Subbasin Parcel Fee Model may need to be updated to reflect a correct land use. The current land use codes are directly input from the County of Merced Assessor's Roll. This item presents a draft process for Board consideration should a land use code be disputed by a landowner. The following is the suggested process for updating the code:

- 1) If a land use is identified as incorrect, the Landowner must contact the GSA staff and submit a written request to have the land use code associated with their parcel be updated with a correct land use.
- 2) GSA Staff will use available data to verify land use update. GSA staff may use aerial photos through GIS, physical inspection, or other means, to determine whether or not the land use is inconsistent with the land use code. Should staff determine that this is a clear inconsistency (for example: APN coded as trees or farming, which clearly is grazing) staff is authorized to make an adjustment in the Parcel Fee Model to update the land use for that particular APN. If staff is unable to make a determination of inconsistency, no action will be taken.
- 3) Should the landowner not agree with Staff's findings regarding the verification of the land use code, the landowner may appeal staff's determination in writing to the Merced Subbasin GSA Board for final consideration.
- 4) **Parcels with split land use**  
The County of Merced Assessor's office identifies land use codes in the Assessment Roll as the highest land use on each parcel. On parcels where a portion of the parcel is in a high land use and a portion of the parcel is in a lower valued land use, the highest land use is the identified code.  
Landowners may dispute the land use code for an entire parcel when a portion of a parcel is not in a land use consistent with the land use code following the procedures set forth in paragraphs 1 through 3. In this instance the higher fee is applied to the entire parcel, where the high fee land use is only on a portion of the parcel.
- 5) Fallowing of agricultural land is not a change in the land use, unless that land is permanently retired with documentation (for example under a conservation easement for habitat or wildlife).

**REQUEST/RECOMMENDATION/ACTION NEEDED:**

Discussion and possible action to approve a proposal that sets forth a standard process for landowners in the GSA, subject to the proposed landowner SGMA compliance fee, to update their land use in the Parcel Fee Model for the purpose of the landowner fee, should it be necessary.