

**SPECIAL MEETING AGENDA**

**February 24, 2021**

**2:00 PM**

**2222 M Street, Board Room**

**Merced, CA**

Join Zoom Meeting

<https://us02web.zoom.us/j/88139723892?pwd=b0lwR3dlV1EvOEExEbWljVlFlWGNNZz09>

Meeting ID: 881 3972 3892

Dial in: +1 669 900 6833

Passcode: 220002

IMPORTANT NOTICE: Due to the ongoing COVID-19 Crisis, and as authorized by the Governor's Executive Order N-29-20, this meeting will be broadcast via conference call in addition to the meeting's physical location. Members of the public who wish to provide comment or observe the meeting may join the conference call.

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

**2. PLEDGE OF ALLEGIANCE**

**3. ELECTION OF CHAIR/VICE CHAIR/SECRETARY**

Action to elect a Chair, Vice Chair and Secretary for a two year term.

**4. REMARKS FROM THE OUTGOING CHAIR**

**5. 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.

**6. APPROVAL OF MINUTES**

Action to approve the meeting minutes from the Governing Board meeting on January 14, 2021.

**7. GSP IMPLEMENTATION WORKSHOP**

Presentation and discussion of GSP implementation activities.

**8. CONTRACT FOR AUDITOR SERVICES**

Action to approve a contract with Brown, Armstrong Accountancy Corporation for financial auditing services to perform the required first financial audit of the GSA for FY2017 through FY 2020 at the estimated cost of \$15,000 and to perform annual audits at the estimated cost of \$5,000, for a term of 5 years with a not-to-exceed contract amount of \$35,000.

**9. SELECTION OF CONSULTANT FOR BASIN-WIDE WELL MONITORING**

Action to approve a consultant for basin-wide well monitoring as recommended by the Coordination Committee.

**10. APPOINTMENT OF STAKEHOLDER ADVISORY COMMITTEE**

Action to approve a Stakeholder Advisory Committee membership list, for GSP Implementation, as recommended by the Coordination Committee.

**11. APPOINTMENT OF COORDINATION COMMITTEE MEMBERS**

Action to identify and appoint board members to current standing committee, the Coordination Committee.

**12. STAFF REPORT**

**13. BOARD REPORTS**

**14. NEXT REGULAR MEETING**

**15. ADJOURNMENT**

Alternate formats of this agenda will be made available upon request by qualified individuals with disabilities. Appropriate interpretive services for this meeting will be provided if feasible upon advance request by qualified individuals with disabilities. Please contact the Secretary at (209) 385-7654 for assistance and allow sufficient time to process and respond to your request. Copies of agendas and minutes will be available at the Merced County Community and Economic Development Department and at [www.countyofmerced.com/MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

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

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**MINUTES FOR MEETING OF JANUARY 14, 2021**

The agenda, original minutes, and all supporting documentation (for reference purposes only) of the Merced Subbasin Groundwater Sustainability Agency Governing Board meeting of January 14, 2021 are available online at [www.countyofmerced.com/MercedSubbasinGSA](http://www.countyofmerced.com/MercedSubbasinGSA).

**I. CALL MEETING TO ORDER**

The regular public meeting of the Merced Subbasin Groundwater Sustainability Agency Joint Powers Authority Governing Board was called to order at 2:00 p.m., on January 14, 2021, via conference call due to the ongoing COVID-10 crisis and as authorized by the Governor's Executive Order N-29-20.

**II. ROLL CALL OF BOARD MEMBERS**

**Board Members Present:**

Bob Kelley	Chairman (Stevinson Water District)
Nic Marchini	Vice-Chair (Western White Area)
Michael Gallo	(Eastern White Area Representative)
George Park	(Lone Tree Mutual Water Co.)
Supervisor Lloyd Pareira	(Merced County) (In Person)

**Board Members absent:** Kole Upton (Le Grand-Athlone Water District)

**Staff Present:**

Mark Hendrickson	Secretary
Lacey McBride	Water Resources Coordinator
Ana Muniz-Laguna	Recording Secretary

**III. PUBLIC COMMENT PERIOD**

None

**IV. APPROVAL OF MINUTES**

Action to approve the meeting minutes from the Governing Board meeting on December 10, 2020.

No public comment.

**MOTION: M/S GALLO – MARCHINI, AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES THE MINUTES FROM THE DECEMBER 10, 2020 MEETING.**

**V. SUSTAINABILITY ZONES DISCUSSION**

Ms. Lacey McBride provided an overview of concepts for sustainability zones to the Merced Subbasin GSA as proposed by Provost and Pritchard. Mr. Greg Young, consultant with Tully and Young, and Mr. Mike Day, with Provost and Pritchard Consulting Group, presented options for establishing sustainability zones within the GSA. These sustainability zones would be utilized for projects and management actions necessary to implement the Groundwater Sustainability Plan. The GSA reviewed the maps and analysis from Provost and Pritchard and discussed.

Mr. Young advised that all layers were considered when working on these zones but it may not be a good idea to have too many zones.

Chairman Kelley spoke about undesirable results and the review of policies and regulations on the subject of trading within the different sustainability zones.

Boardmember Gallo suggested presenting topics to the Technical and Advisory Committee (TAC) to obtain their input.

Ms. McBride responded that there was a presentation about these sustainability zones to the TAC group to get their input and recommendations.

Public comment opened.

Mr. Eric Swenson, Merquin Water District discussed that Zone 1 does not have a lot of good production wells in that area. He suggested a 6-zone concept instead of 4.

Mr. Young discussed the reasons for sustainability zones versus management zones since terming them management zones might trigger a state reporting based on SGMA regulations.

Chairman Kelley stated a preference for a 4-zone versus a 6-zone option.

Mr. Mark Hendrickson stated there is room for adjustments to be made and opened discussion for a timeline extension for Provost and Pritchard.

Ms. McBride informed that the action today is discussion of zones and the addition of funds and extension to June 30<sup>th</sup>, 2021 for Provost and Pritchard. She added that the TAC would make adjustment recommendations.

Boardmember Marchini stated he is familiar with the southern areas and likes the 6-zone possibility.

**MOTION: M/S MARCHINI – PARK, AND CARRIED BY A VOTE OF 5 – 0, TO  
EXTEND THE FUNDING AMOUNT \$5,000 AND EXTEND THE TERM OF THE**

**TASK ORDER TO JUNE 30, 2021 WITH PROVOST AND PRITCHARD CONSULTING GROUP.**

**VI. EVAPOTRANSPIRATION DATA MAPPING**

Mr. Young lead a discussion on evapotranspiration (EV) mapping options for the GSA. He gave overview and examples of how GSA may use EV mapping to inform policy decisions and bring forth education during GSP implementation.

Boardmember Gallo suggested that going forward staff could talk to other GSAs to see what they are doing to help save time.

Chairman Kelley agreed that it would be helpful to learn what neighboring basins are doing.

Boardmember Marchini asked about a motion to purchase data and asked about a GSA breakdown of areas.

Public comment opened.

Comments from public were discussed.

Chairman Kelley suggested moving forward with remote sensing on a parcel by parcel basis. He affirmed that he supports this data as collected and broken down.

**MOTION: M/S MARCHINI – GALLO, AND CARRIED BY A VOTE OF 5 – 0, THE BOARD APPROVES ACTION TO CONSIDER A PROPOSAL FROM FORMATION ENVIRONMENTAL TO PURCHASE ACTUAL EVAPOTRANSPIRATION DATA TABULATED MONTHLY AND ANNUALLY FOR THE TIMESPAN OF JANUARY 1, 2010 THROUGH DECEMBER 31, 2018.**

**VII. STAFF REPORT**

Ms. McBride updated on Proposition 68 and its budget.

Ms. McBride informed about a GSA Board meeting and workshop in February which will go over options for demand reduction. She informed that the February meeting may include selecting new officers and terms if the meeting occurs after February 22.

Ms. McBride also conveyed that the basin wide Stakeholder Committee will start to come together again with the focus on GSP implementation and applications for participants will be due by February 1, 2021.

Ms. McBride informed that Form 700's are being collected and signed originals are due by all members by April 1, 2021.

VIII. **BOARD REPORT**

None

IX. **NEXT REGULAR MEETING**

Next regular meeting will be held on April 8, 2021.

X. **ADJOURNMENT**

There being no further business, the meeting adjourned at 3:56 p.m.

DRAFT

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: FEBRUARY 24, 2021**

**SUBJECT: ELECTION OF CHAIR/VICE CHAIR/SECRETARY**

### **SUMMARY:**

The Joint Powers Agreement, Article 8, calls for the Governing Board to choose Officers to serve for a term of two years and they may serve for multiple consecutive terms.

The election of Officers will be made through a motion to nominate, supported by a second motion, and followed by a vote of the Board Members. Any person who wishes to nominate themselves may do so, such nomination must receive a second nomination and a vote. The Chair and Vice-Chair shall be appointed from the Governing Board by the Governing Board. The nominations process will be open for all nominations, then will close prior to taking action.

The Secretary is not required to be a member of the Governing Board, but can be a member of the staff of one of the Members. For the past four years Merced County's Director of Community of Economic Development, Mr. Mark Hendrickson, has served, at the action of the Governing Board, as the Secretary and designated staff to take minutes. Mr. Hendrickson is available to continue to serve as Secretary and designate staff to take minutes, should the Governing Board choose.

Chairman - shall preside at all Governing Board Meetings

Vice-Chairman - shall act in place of the Chairman at meetings should the Chairman be absent.

Secretary - shall keep minutes of all meetings of the Governing Board and shall, as soon as possible after each meeting, forward a copy of the minutes to each member and alternate of the Governing Board.

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

- 1) Board Members nominate from the Board and vote on Chair position
- 2) Board Members nominate from the Board and vote on Vice-Chair position.
- 3) Board Members nominate and vote on Secretary position.

**BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: FEBRUARY 24, 2021**

**SUBJECT: GSP IMPLEMENTATION WORKSHOP**

**SUMMARY:**

This is a Governing Board workshop on GSP Implementation for the purpose of continuing Board discussion of the activities necessary to implement SGMA and focus on near and long term activities in 2021. This workshop will provide a review of the GSP and sustainability goals, as well as a review of the previously discussed First Five Implementation Plan and current demand and groundwater conditions.

**REQUEST/RECOMMENDATION/ACTION NEEDED:**

No action required.



## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: FEBRUARY 24, 2021**

**SUBJECT: CONTRACT FOR AUDITOR SERVICES**

### **SUMMARY:**

As a joint powers authority the Merced Subbasin GSA is required by law to perform annual financial audits. In 2018 the Governing Board approved a resolution and the Merced County Auditor approved the request to adopt a five-year audit. Under this five-year audit, the first audit for the GSA would be for the fiscal years 2017-2021.

In 2020, after adopting and collecting the SGMA Landowner Fee, the GSA's revenue increased to exceed the \$150,000 threshold making the GSA no longer eligible for a five-year audit and requiring the GSA to perform annual audits. The first annual audit is required to include all periods not previously audited, since inception in 2017.

Staff is recommending the Merced Subbasin GSA contract with the financial firm Brown Armstrong Accountancy Corporation to complete the initial audit, as well as annual audits for a term of five years at the not to exceed contract cost of \$35,000. Staff had reached out to several financial firms and received multiple cost estimates, not only was Brown Armstrong the lowest cost estimate, but they are familiar with the County of Merced's financial systems, as the County's auditor, and are familiar with groundwater sustainability agencies. The total annual contract amount is below the limit required for competitive proposal process, as such staff recommends the GSA contract with Brown Armstrong for these required financial audits.

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

Approve a contract with Brown, Armstrong Accountancy Corporation for financial auditing services to perform the required first financial audit of the GSA for FY2017 through FY 2020 at the estimated cost of \$15,000 and to perform annual audits at the estimated cost of \$5,000, for a term of 5 years with a not-to-exceed contract amount of \$35,000.

**AGREEMENT FOR SPECIAL SERVICES**

**MERCED SUBBASIN GROUNDWATER SUSTAINABILITY AGENCY  
CONTRACT NO. 2020-01**

**THIS AGREEMENT**, is made and entered into this by and between the Merced Subbasin Groundwater Sustainability Agency, a joint powers authority, (hereinafter referred to as "GSA"), and Brown Armstrong Accountancy Corporation, a California Corporation), located at 4200 Truxtun Ave, Suite 300, Bakersfield, CA 93309 (hereinafter referred to as "CONSULTANT").

**WHEREAS**, GSA desires to contract with CONSULTANT for special services which consist of auditing the financial records and statements of the Merced Subbasin GSA; and

**WHEREAS**, CONSULTANT is specially trained, experienced, and competent to perform such services in connection with financial audits; and

**WHEREAS**, the parties desire to set forth herein the terms and conditions under which said 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 professional audit services in accordance with the terms and conditions stated herein. CONSULTANT's services include, but are not limited to, the following:

- A. Initial set up and financial audit for the Merced Subbasin GSA for the years ending June 30, 2017 through June 30, 2019.
- B. Financial audits for the following years ending June 30, 2020 through June 30, 2024.

**2. TERM**

The term of this Agreement shall commence on the 24 day of February, 2021, and continue until the 24 day of February, 2025, unless sooner terminated in accordance with the sections entitled "TERMINATION FOR CONVENIENCE", "TERMINATION FOR CAUSE" or "CONDITION SUBSEQUENT/NON-APPROPRIATION OF FUNDING", as specified elsewhere in this Agreement.

**3. COMPENSATION**

GSA agrees to pay CONSULTANT a Total Contract Price of Thirty Five Thousand

Dollars and No/100 Cents (\$35,000.00) for all of CONSULTANT's services to be provided herein, as are more specifically set forth under Section 1, "SCOPE OF SERVICES". The Total Contract Price shall include all of GSA's compensation to CONSULTANT, including reimbursement for all expenses incurred by CONSULTANT in the performance of this Agreement. No other fees or expenses of any kind shall be paid to CONSULTANT in addition to the Total Contract Price. In no event shall the total services to be provided hereunder exceed the Total Contract Price, unless the level of financial activity increases, substantially changing the scope of service, and agreed to by both parties. 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 or delivered to CONSULTANT at:

Name: Brown Armstrong Accountancy Corporation  
Address: 4200 Trunxtun Ave., Suite 300  
City/State/Zip: Bakersfield, CA 93309

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 7, "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 \$35,000.

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 1, "SCOPE OF SERVICES." Payment shall be made in the following manner:

Upon completion of the required services as set forth under Section 1, "SCOPE OF SERVICES," CONSULTANT shall submit an invoice **within thirty (30) calendar days of each invoice period**, detailing the services it has provided and

the amount owed under this Agreement. In addition to the invoice 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 the invoice and W-9 form shall be forwarded to the GSA at the GSA address shown under Section "NOTICES" of this Agreement, **not later than thirty (30) calendar days after completion and acceptance by the GSA of all tasks identified on the invoice.** Upon approval by GSA, the fee due hereunder shall be paid to CONSULTANT within thirty (30) days following receipt of a proper invoice.

In no event shall GSA be liable for the payment of any invoice not submitted within thirty (30) calendar days following termination of the Agreement.

**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.

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  
2222 M Street  
Merced, CA 95340

Brown Armstrong Accountancy Corp.  
4200 Truxtun Ave. Suite 300  
Bakersfield, CA 93309

Any party may change its address 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 on each policy as required in this section. Each certificate of insurance shall specify if CONSULTANT has an SIR, and if so, CONSULTANT shall be required to provide the entire policy of insurance with which it has an SIR and/or deductible. All deductibles and self-insured retentions shall be fully disclosed in the Certificates of Insurance and are subject to the express written permission of the GSA.

1. Commercial General Liability: \$1,000,000 per occurrence and \$2,000,000 annual aggregate covering products and completed operations, 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.
4. Professional Liability (Errors and Omissions): \$1,000,000 limit per occurrence and \$5,000,000 annual aggregate limit covering CONSULTANT's wrongful acts, errors and omissions. Any aggregate limit for professional liability must be separate and in addition to any CGL aggregate limit. Claims – made coverage requires CONSULTANT to maintain a minimum of three (3) years extended reporting period or tail coverage.

**B. INSURANCE CONDITIONS**

1. Insurance is to be primary and non-contributory with any insurance of the GSA and placed with admitted insurers rated by A.M. Best Co. as A: VII or higher. Lower rated, or approved but not admitted insurers, or any other requirement changes (such as limits) are subject to the prior approval of 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.
3. If the CONSULTANT maintains broader coverage and/or higher limits than the minimums shown above, the GSA requires and shall be entitled to the broader coverage and/or the higher limits maintained by the CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the GSA.
4. If the CONSULTANT uses subcontractors or others to perform work under this contract, such subcontractor or other persons shall be Named Insured or Additionally Insured to the CONSULTANT's required insurance coverage, or required by the CONSULTANT to comply with equivalent insurance and conditions of this Section.

### **13. 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 subcontractors and employees, if any.

It is mutually agreed and understood that CONSULTANT, its subcontractors 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.

### **14. 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, and in accordance with professional standards issued by the AICPA, 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.



**15. OWNERSHIP OF DOCUMENTS**

To the extent permitted by law, all technical data, evaluations, plans, specifications, reports, documents, or other work products developed by CONSULTANT except for CONSULTANT's audit work-papers if CONSULTANT is prohibited by professional standards or state statutes from assigning ownership to GSA 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.

**16. 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.

**17. PERSONAL SATISFACTION AS A CONDITION PRECEDENT**

The obligations of the GSA as provided in this Agreement are expressly conditioned upon CONSULTANT'S compliance with the provisions of the contract to the personal satisfaction of the GSA. GSA shall determine compliance in good faith as a reasonable person would under the circumstances.

**18. 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.

**19. GSA NOT OBLIGATED TO THIRD PARTIES**

The GSA shall not be obligated or liable hereunder to any party other than CONSULTANT.

**20. 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 sub-grantees, 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.

**21. 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.

**22. 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.

**23. 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.

**24. BREACH OF CONTRACT**

Upon breach of this Agreement by CONSULTANT, GSA shall have all remedies available to it both in equity and/or at law.

**25. 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.

**26. 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.

**27. 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.

**28. 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.

**29. 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.

CONSULTANT 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 CONSULTANT for sale to the GSA

pursuant to this Agreement.

**30. 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.

**31. 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.

*Signature page to follow*

Merced Subbasin GSA

Brown Armstrong Accountancy Corp.

By \_\_\_\_\_  
(*Name*)

By \_\_\_\_\_  
(*Name*)

\_\_\_\_\_  
Chair

\_\_\_\_\_  
(*Title of Individual*)

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Dated

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: FEBRUARY 24, 2021**

**SUBJECT: SELECTION OF CONSULTANT FOR BASIN-WIDE WELL MONITORING**

**SUMMARY:**

The Merced Subbasin Groundwater Sustainability Plan includes monitoring networks for groundwater elevation, groundwater quality, and subsidence. The groundwater monitoring network consists of approximately 50 California Statewide Groundwater Elevation Monitoring (CASGEM) wells that are currently monitored biannually in March and October. The groundwater quality monitoring network consists of 284 wells actively monitored by other entities, and the subsidence monitoring network includes subsidence control points monitored by the US Bureau of Reclamation.

Through an RFQ process directed by the Coordination Committee, the GSA's in the Merced Subbasin solicited qualified consultants for the purpose of performing various services related to supporting the monitoring required in the Merced Subbasin GSP, including monthly monitoring of groundwater levels in CASGEM wells and coordinating groundwater quality and subsidence monitoring with other entities. This consultant may also assist in filling data gaps through the installation of new monitoring sites and the refinement of existing groundwater and subsidence monitoring programs.

At the February 22 Coordination Committee meeting, the Committee is anticipated to recommend that each of the GSA Boards approve a contract for groundwater network monitoring. The cost of the contract is to be split amongst the GSAs according to the Coordination Agreement. The Merced Subbasin GSA pays 58% of basin-wide costs under the Coordination Agreement.

**REQUEST/RECOMMENDATION/ACTION NEEDED:**

Approve a consultant for basin-wide well monitoring as recommended by the Coordination Committee.

## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: FEBRUARY 24, 2021**

**SUBJECT: APPOINTMENT OF STAKEHOLDER ADVISORY COMMITTEE**

### **SUMMARY:**

In 2018 the Coordination Committee recommended the appointment of a basin-wide Stakeholder Committee to advise the GSAs and Coordination Committee on such topics of groundwater conditions, management issues and needs, and projects and management actions during the development of the GSP. The Stakeholder Committee met monthly through the end of 2019 when the GSP was complete and scheduled for GSA adoption. The Stakeholder Committee for GSP development was a diverse group of 23 members representing urban, agricultural, environmental, DAC and other interests in the basin.

The Coordination Committee is recommending the GSAs re-appoint a Stakeholder Advisory Committee for GSP Implementation. This Stakeholder Advisory Committee is anticipated to meet quarterly for a two year term.

The open process to identify the Stakeholder Committee started with the release of a publicly available application that was due February 1. Ideal applicants demonstrated commitment to community service and civil leadership, prior experience participating constructively on similar advisory committees and an understanding of water issues. The Coordination Committee then selected applicants, representing broad stakeholder interests in the basin from agriculture, industry, local communities, disadvantaged communities, business and environmental interests, in addition to geographic representation.

The Coordination Committee is anticipated to recommend the proposed Stakeholder Advisory Committee at the February 22 meeting. This action requests the Governing Board approve the proposed Stakeholder Advisory Committee members for a two year term.

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

Approve a basin-wide Stakeholder Advisory Committee membership list, for GSP Implementation, as recommended by the Coordination Committee.



## **BOARD ACTION ITEM**

**TO: MEMBERS OF MERCED SUBBASIN GSA GOVERNING BOARD**  
**FROM: MARK HENDRICKSON, SECRETARY**  
**DATE: FEBRUARY 24, 2021**

**SUBJECT: APPOINTMENT OF COORDINATION COMMITTEE MEMBERS**

### **SUMMARY:**

In order to facilitate the close coordination between the Merced Subbasin GSA, the Merced Irrigation Urban GSA and the Turner Island Water District GSA on sustainable groundwater management in the Merced Subbasin, a Coordination Agreement was signed by each GSA in 2017. Under this Coordination Agreement a Coordination Committee was formed consisting of representatives of each GSA. The decision making process through the Coordination committee is to make unanimous recommendations back to each GSA Board for final approvals and to facilitate the GSP development and implementation process.

The Coordination Committee is anticipated to meet quarterly, or more often if necessary, during GSP implementation. Coordination Committee members also participate in any ad hoc committees formed by the Coordination Committee. There is currently one ad hoc committee working on the allocation framework.

The Coordination Committee is made up of up to four representatives of each GSA. Due to Brown Act constraints, the Merced Subbasin GSA may appoint three board members to the Coordination Committee.

The three Merced Subbasin GSA representatives appointed to the Coordination Committee in March 2019 were Chair Bob Kelley, Nic Marchini, and Mike Gallo. George Park was appointed as the alternate. An alternate may be appointed to attend when one of the primary representatives cannot attend.

Due to changes in Board Members, there are vacancies on the Coordination Committee for the Governing Board to appoint. The Board may appoint members to fill the vacancies (one member and one alternate) and reappoint current members, or appoint a new slate of Coordination Committee members. Staff is recommending maintaining some consistency in Coordination Committee membership, recognizing the valuable understanding and building upon the discussions and coordination that has taken place amongst the GSAs over the past year of GSP implementation and years of GSP development.

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

Action to identify and appoint three board members and one alternate to the Coordination Committee.