



MEMORANDUM

TO: SLDMWA Board of Directors, Alternates

FROM: John Brodie, Water Resources Program Manager
Lauren D. Layne, Baker Manock & Jensen
Fernando A. Almaraz, Baker Manock & Jensen

DATE: October 10, 2024

RE: Board of Directors to Consider Authorizing Execution of Fourth Amendment to Central Delta-Mendota Region Sustainable Groundwater Management Act (SGMA) Services Activity Agreement, Third Amendment to Northern Delta-Mendota Region SGMA Services Activity Agreement, and Amended and Restated Cost Sharing Agreement for Delta-Mendota Subbasin Coordination

BACKGROUND

In July 2018, the San Luis & Delta-Mendota Water Authority (“Water Authority”) executed the Delta-Mendota Subbasin Coordination and Cost-Sharing Agreements, which established the Water Authority’s role as a coordinating partner for the 23 Groundwater Sustainability Agencies and 6 Groundwater Sustainability Plans for the Delta-Mendota Subbasin (“D-M Subbasin”). Since that time, the Water Authority staff has served as the SGMA Point of Contact for the D-M Subbasin with the California Department of Water Resources (“DWR”) and as a facilitator and program management entity for coordinated activities in the D-M Subbasin, including GSP submittal, grant preparation and coordination, and fiscal agent.

In response to DWR’s “inadequate” determination of the revised 2022 GSPs in March 2023, the 23 D-M Subbasin GSAs collectively agreed to develop a single GSP for the D-M Subbasin to address DWR’s identified deficiencies. As part of this process, the D-M Subbasin GSAs also adopted a Memorandum of Agreement Among the Delta-Mendota Subbasin Groundwater Sustainability Agencies (“MOA”) to replace the prior Coordination Agreement, which was no longer required due to the adoption of a single GSP. Furthermore, in response to DWR’s noted deficiency related to the Chronic Lowering of Groundwater Levels, the D-M Subbasin GSAs plan to implement a Well Mitigation Program to address potential impacts to domestic and small community wells. The Domestic Well Mitigation Program was incorporated into the single D-M Subbasin GSP. The single D-M Subbasin GSP was finalized in July 2024 and all but one GSA has adopted it. The final GSA is scheduled to adopt the single D-M Subbasin GSP in November 2024. The single D-M Subbasin GSP supersedes and replaces the prior six coordinated GSPs in the Subbasin.

The Well Mitigation Program is planned to be funded by Coordination Committee GSA groups pursuant to the cost split as noted in the MOA. Each group may further share the costs amongst the GSAs it represents. The funding will be held in a Joint Cost Sharing Account, which will be funded with \$300,000 over three years (\$100,000 per year). The funds within the Joint Cost Sharing Account will be invested and only those who contributed to the fund will earn interest. The Joint Cost Sharing Account funds can only be used for the construction costs of a domestic well. Each GSA in which there is a well going dry is located is responsible for investigating why the well is going dry. If the cause of the well going dry is due to the lowering of groundwater levels, then that GSA will replace the well. The GSA may use funds from the Subbasin's Joint Cost Sharing Account for those construction costs but will be required to reimburse the account within one year.

Additionally, upon the adoption of the single D-M Subbasin GSP, the MOA updates the D-M Subbasin Coordination Committee organization and cost sharing. Specifically, the Coordination Committee will be adjusted to 7 voting members from the current 8 voting members, and costs will be split amongst those seven voting members equally. The Cost Sharing Agreement has been updated to reflect these revisions and the transition to a single GSP.

The Activity Agreements with the Central Delta-Mendota Region GSA Group and the Northern Delta-Mendota Region GSA Group have been similarly updated to reflect the adoption of a single GSP, the MOA, and a Domestic Well Mitigation Program.

The Water Authority's legal and accounting departments indicated that the creation of a "Cost Sharing Account" was outside of the parameters of the existing Activity Agreements between the Subbasin GSAs and the Water Authority. As a result, the Coordination Committee needed to amend the Cost Sharing Agreement and further action is needed from the Water Authority Board to permit the funds to be held in trust.

Legal counsel prepared amendments to the Activity Agreements and an Amended and Restated Cost Sharing Agreement for the Water Authority Board of Directors to consider and adopt.

ISSUE FOR DECISION

Whether the Board of Directors should authorize execution of the amendments to the Central D-M Region SGMA Services and Northern D-M Region SGMA Services Activity Agreements and Amended and Restated Cost Sharing Agreement to establish the funding structure needed to fund the Domestic Well Mitigation Program and reflect the revised cost sharing structure of the D-M Subbasin Coordination Committee.

RECOMMENDATION

Staff recommends the Board execution of the Fourth Amendment to Central D-M Region SGMA Services Activity Agreement, the Third Amendment to the Northern D-M Region SGMA Services Activity Agreement, and the Amended and Restated Cost Sharing Agreement.

ANALYSIS

1. AMENDMENTS TO SGMA ACTIVITY AGREEMENTS

The Activity Agreements with the Central Delta-Mendota Region GSAs and the Northern Delta-Mendota Region GSAs were generally amended to authorize the creation of a Joint Cost Sharing Account to fund the Domestic Well Mitigation Policy. This account will be held in trust by the Water Authority and funded according to each Activity Participant's Participating Percentage, as outlined in the Activity Agreement. Amendments to the Activity Agreements must be in writing and approved by the Water Authority, the Activity Agreement Members, and the SS-MOA Participants.

The amendments also introduced definitions for "Coordination Committee," "Domestic Well Mitigation Policy," and "Joint Costs Sharing Account." Additionally, a new subsection was added to authorize the establishment of the Joint Cost Sharing Account, to detail how the Domestic Well Mitigation Policy will be funded, and to require strict accountability for all funds in the account. The amendments clarified that Activity Participants will be billed, including for contributions to the Joint Cost Sharing Account, according to the same schedule used for membership dues. An amendment also specified that withdrawing from the MOA does not release an Activity Participant from responsibility for funds already withdrawn from the Joint Cost Sharing Account.

2. AMENDMENTS TO COST SHARING AGREEMENT

References to "GSP Groups" were generally updated to "GSA Groups," references to the "Coordination Agreement" were replaced with "MOA," and the structure and cost sharing of the Coordination Committee was revised to reflect the terms of the MOA.

The Recitals were revised to include a reference to the single GSP and updated to identify the sharing of costs associated with the coordination activities as described in the Cost Sharing Agreement and the MOA. Section 3 ("Participating Percentages"), subsection b, was amended to clarify that Participation Percentages may not be evaluated more than once per year. Section 8 ("Records") was amended to specify that only GSA Parties and their designated agents who have made a contribution have the right to inspect all records associated with the Agreement.

Section 15 ("Withdrawal"), subsection b, was amended to reduce the written withdrawal notification period from sixty (60) days to thirty (30) days. Section 21 ("Procedures for Resolving Conflicts") was amended to clarify that this section does not apply to disputes arising from the Coordination Committee's inability to reach a unanimous decision. Finally, Exhibit A ("GSA Groups and Responsible Agencies to Invoice") was amended to change the Participation Percentage from "16.7%" to "1/7."

BUDGET

The Coordination Committee GSA groups will fund, according to their Participation Share, a total of \$300,000 into an interest-bearing Joint Cost Sharing Account for Domestic Well Mitigation. This account will be funded with \$100,000 per year for the first three years. Thereafter, the

Coordination Committee will annually review the Policy to determine if additional funding is required. In the event additional funds are needed, a unanimous vote of the Coordination Committee will be required to increase the funding beyond \$300,000.

The existing accounts managed by the Water Authority for the benefit of the Delta-Mendota Subbasin Activity Agreement Participants and the D-M Subbasin Coordination Committee will remain in effect. The cost sharing and invoicing associated with those funds of the Coordination Committee will be updated to reflect the Amended and Restated Cost Sharing Agreement.

Attachments: Fourth Amendment to Central D-M Region SGMA Services Activity Agreement
Third Amendment to Northern D-M Region SGMA Services Activity Agreement
Amended & Restated Cost Sharing Agreement for Delta-Mendota Subbasin

**FOURTH AMENDMENT TO
CENTRAL DELTA-MENDOTA REGION
SUSTAINABLE GROUNDWATER MANAGEMENT ACT
SERVICES ACTIVITY AGREEMENT
AND CONSENT OF SS-MOA PARTICIPANTS**

RECITALS

A. **WHEREAS**, the San Luis & Delta-Mendota Water Authority (“Authority”) and its members Eagle Field Water District, Mercy Springs Water District, Pacheco Water District, Panoche Water District, San Luis Water District, Oro Loma Water District, Tranquillity Irrigation District, and Fresno Slough Water District (the “Activity Agreement Members”) have executed that certain Central Delta-Mendota Region Sustainable Groundwater Management Act (“SGMA”) Services Activity Agreement (“Activity Agreement”), made effective as of February 15, 2017, that certain First Amendment, made effective as of November 17, 2017 (the “First Amendment”), that certain Second Amendment, made effective November 1, 2018 (the “Second Amendment”), and that certain Third Amendment, made effective August 30, 2021 (the “Third Amendment”); and

B. **WHEREAS**, the County of Fresno, the County of Merced, Santa Nella County Water District, Widren Water District and the Central Delta-Mendota GSA (the “SS-MOA Participants”), are non-members of the Authority and have executed Memoranda of Agreement to participate in the Activity Agreement as SS-MOA Participants; and

C. **WHEREAS**, effective August 28, 2019, Eagle Field Water District, County of Fresno, Fresno Slough Water District, County of Merced, Mercy Springs Water District, Pacheco Water District, Panoche Water District, San Luis Water District, Santa Nella County Water District, and Tranquillity Irrigation District formed a joint power authority known as the Central Delta-Mendota Groundwater Sustainability Agency; and

D. **WHEREAS**, the Central Delta-Mendota Groundwater Sustainability Agency replaced the multi-agency Groundwater Sustainability Agencies (“GSAs”) formed pursuant to a prior memorandum of agreement amongst the same Parties; and

E. **WHEREAS**, Oro Loma Water District and Widren Water District are each GSAs within the Delta-Mendota Subbasin; and

F. **WHEREAS**, the GSAs in the Delta-Mendota Groundwater Subbasin (“Subbasin”) have historically worked with disadvantaged communities to improve drinking water access; and

G. **WHEREAS**, the Coordination Committee for the Subbasin developed a Domestic Well Mitigation Policy (the “Policy”), which was approved by all of the GSAs in the Subbasin as part of the adoption of a single Groundwater Sustainability Plan (“GSP”); and

H. **WHEREAS**, the purpose of the Policy is to mitigate the effects that may be felt by domestic water users whose wells have gone dry or are in imminent threat of going dry due to groundwater levels dropping as a result of groundwater management in the Subbasin; and

I. **WHEREAS**, the Policy is intended to serve as a last line of defense to protect domestic groundwater users in the unlikely event that the Subbasin GSAs' efforts fail to maintain those Minimum Threshold ("MT") groundwater levels set in the single GSP; and

J. **WHEREAS**, the Parties desire to enter into this Fourth Amendment to the Activity Agreement to establish the authority to create a Joint Cost Sharing Account to fund the Policy; and

K. **WHEREAS**, Section 19.1 of the Activity Agreement authorizes the amendment of the Activity Agreement if completed in writing by the Authority and the Activity Agreement Members, with approval from the SS-MOA Participants.

AGREEMENT

NOW, THEREFORE, in consideration of the true and correct facts recited above, which are hereby incorporated herein, the Activity Agreement Members and the Authority agree as follows:

1. The Activity Agreement Members hereby agree to establish a Joint Cost Sharing Account maintained in trust by the Authority and funded based on the Activity Participants' Participation Percentages as set forth in the Activity Agreement.
2. The terms of the Activity Agreement as modified by the First Amendment, Second Amendment, and the Third Amendment remain in full force and effect, except as modified by this Fourth Amendment.
3. This Fourth Amendment shall become effective once it has been executed by an authorized representative of the Authority and a majority of the Activity Agreement Members with the consent of the SS-MOA Participants, which consent may be accomplished by execution of the form attached hereto as Exhibit "A."
4. **AMENDMENT TO SECTION 2.** The Parties hereby agree to add the following three definitions to Section 2 of the Activity Agreement:

"Coordination Committee" shall mean the seven-member Delta-Mendota Subbasin Coordination Committee composed of the Northern Delta-Mendota GSA Group, the Central Delta-Mendota GSA Group, the San Joaquin River Exchange Contractors Water Authority GSA Group, the Grassland GSA Group, the Farmers Water District GSA Group, the Fresno County GSA Group, and the Aliso Water District GSA Group, created to provide overall guidance and resolve conflicts among the GSAs.

"Domestic Well Mitigation Policy" shall mean the Policy adopted by the Delta-Mendota Subbasin GSAs as part of the single GSP for the Delta-Mendota Subbasin, to mitigate the effects that may be felt by domestic water users whose wells have gone dry or are in imminent threat of going dry due to groundwater levels dropping as a result of groundwater management in the Delta-Mendota Subbasin.

“Joint Cost Sharing Account” shall mean an account maintained in trust by the Authority funded by Activity Participants based on their corresponding Participation Percentage, specifically to fund activities in accordance with the Delta-Mendota Subbasin Domestic Well Mitigation Policy.’

5. **AMENDMENT TO SECTION 2.** All definitions within Section 2 of the Activity Agreement, including the newly added definitions, are hereby renumbered sequentially to reflect the proper order. Any references to definition numbers throughout the Activity Agreement shall be deemed to refer to the appropriate renumbered definition.

6. **AMENDMENT TO SECTION 4.2** The Parties hereby agree to add the following to Section 4.2 of the Activity Agreement:

“(i) To establish, manage, and maintain a Joint Cost Sharing Account funded by the Delta-Mendota Subbasin GSAs, including members of this Activity Agreement, specifically to create a prudent reserve to fund activities in accordance with the Domestic Well Mitigation Policy. The total amount to be deposited into the Joint Cost Sharing Account shall be \$300,000, funded over three years (\$100,000 per year for the first three years). Procedures for funding and use of the Joint Cost Sharing Account shall be developed as part of a separate procedures document.”

7. **AMENDMENT TO SECTION 5.2** The Parties hereby agree to add the following to Section 5.2 of the Activity Agreement:

“(g) To conduct all necessary research and investigations in accordance with the Delta-Mendota Subbasin Domestic Well Mitigation Policy.”

8. **AMENDMENT TO SECTION 8** The Parties hereby agree to add the following to Section 8 of the Activity Agreement:

“8.4 Domestic Well Mitigation Policy Funding. To fund the Domestic Well Mitigation Program, the Coordination Committee GSA groups agree to fund, according to their Participation Share, a total of \$300,000 into an interest-bearing Joint Cost Sharing Account. This account shall be funded with \$100,000 per year, for the first three years. Thereafter, the Coordination Committee shall annually review this Policy to determine if that fund is adequate or if additional funds are required. In the event additional funds are needed, a unanimous vote of the Coordination Committee will be required to increase the funding beyond \$300,000.

GSAs may request use of the funds pursuant to the Domestic Well Mitigation Policy. Thereafter, the account shall be reimbursed by the GSA in whose jurisdiction the funds were expended for mitigation pursuant to the Domestic Well Mitigation Policy.”

9. **AMENDMENT TO SECTION 9.** The Parties hereby agree to delete Section 9 of the Activity Agreement in its entirety and replace Section 9 with the following:

“9. **ACCOUNTABILITY, REPORTS AND AUDITS**

9.1. Full books and accounts for this Activity Agreement, including the Joint Cost Sharing Account, shall be maintained by the Authority in accordance with practices established by, or consistent with, those utilized by the Controller of the State of California for public entities. The books and records shall be open to inspection by the Activity Participants at all reasonable times, and by bondholders and lenders as and to the extent provided by resolution or indenture.

9.2. There shall be strict accountability of all funds deposited on behalf of the Activity Agreement with the Authority. The Authority shall manage and maintain a Joint Cost Sharing Account ledger detailing funds deposited and expensed in accordance with the Domestic Well Mitigation Policy. The Treasurer of the Authority, directly or acting through its Accounting Department, shall provide regular reports of Activity Agreement accounts. Funds of the Activity Agreement shall be subject to audit by the official auditor of the Authority. An Activity Participant may request an independent audit of the Activity Agreement funds, including those in the Joint Cost Sharing Account; any such audit shall be conducted at the expense of the requesting Activity Participant.”

10. **AMENDMENT TO SECTION 11.4.** The Parties hereby agree to delete Section 11.4 of the Activity Agreement in its entirety and replace Section 11.4 with the following:

“11.4. **Invoicing and Payment.** The Authority shall bill the Activity Participants for all Activity Agreement Expenses and Special Project Expenses, including the corresponding Joint Cost Sharing Account contribution, in their respective Participation Percentages on the same schedule as it utilizes for collecting membership dues to implement the Authority budget for each March 1 through the last day in February the following year, generally twice yearly in mid-March and August of such year. Payments are due 30 days following receipt of the Authority’s invoice.”

11. **AMENDMENT TO SECTION 14.** The Parties hereby agree to add the following to Section 14 of the Activity Agreement:

“14.5 In the event of either a voluntary withdrawal or deemed withdrawal by an Activity Participant, that Activity Participant shall remain liable for all funds withdrawn from the Joint Cost Sharing Account. Within thirty (30) days of withdrawing, the withdrawing Activity Participant shall refund all such funds withdrawn from the Joint Cost Sharing Account.”

12. In the event of any conflict between the terms of this Fourth Amendment and the Activity Agreement, First Amendment, Second Amendment, or Third Amendment the terms of this Fourth Amendment shall control.

13. This Fourth Amendment may be signed by the Parties in different counterparts and the signature pages combined to create one document binding on all parties.

IN WITNESS WHEREOF, the Members and the Authority have executed this Fourth Amendment as of the date appearing next to their respective signature lines.

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

BY: _____

Name: _____

Title: _____

Date: _____

ACTIVITY AGREEMENT MEMBERS

Agency Name: **EAGLE FIELD WATER DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **FRESNO SLOUGH WATER DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **MERCY SPRINGS WATER DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **ORO LOMA WATER DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **PACHECO WATER DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **PANOCHÉ WATER DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **SAN LUIS WATER DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **TRANQUILLITY IRRIGATION DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Exhibit "A"

**SS-MOA PARTICIPANT CONSENT TO FOURTH AMENDMENT
TO THE CENTRAL DELTA-MENDOTA REGION
SUSTAINABLE GROUNDWATER MANAGEMENT ACT
SERVICES ACTIVITY AGREEMENT**

The undersigned duly authorized representative of the SS-MOA Participant that has entered into a Memorandum of Agreement for Central Delta-Mendota Region Sustainable Groundwater Management Act Services with the San Luis & Delta-Mendota Water Authority hereby consents on behalf of such SS-MOA Participant to the Fourth Amendment to the Central Delta-Mendota Region Sustainable Groundwater Management Act Services Activity Agreement.

SS-MOA PARTICIPANTS

Agency Name: **CENTRAL DELTA-MENDOTA GSA**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **COUNTY OF FRESNO**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **COUNTY OF MERCED**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **SANTA NELLA COUNTY WATER DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **WIDREN WATER DISTRICT GSA**

BY: _____

Name: _____

Title: _____

Date: _____

**THIRD AMENDMENT TO
NORTHERN DELTA-MENDOTA REGION
SUSTAINABLE GROUNDWATER MANAGEMENT ACT
SERVICES ACTIVITY AGREEMENT
AND CONSENT OF SS-MOA PARTICIPANTS**

RECITALS

A. **WHEREAS**, the San Luis & Delta-Mendota Water Authority (“Authority”) and its members Del Puerto Water District, Patterson Irrigation District, and West Stanislaus Irrigation District) (the “Activity Agreement Members”) have executed that certain Northern Delta-Mendota Region Sustainable Groundwater Management Act (“SGMA”) Services Activity Agreement (“Activity Agreement”), made effective as of February 24, 2017, that certain First Amendment, made effective as of April 30, 2017 (the “First Amendment”), and that certain Second Amendment, made effective October 16, 2018 (the “Second Amendment”); and

B. **WHEREAS**, the City of Patterson, Oak Flat Water District, the County of Stanislaus, and the County of Merced (the “SS-MOA Participants”), are non-members of the Authority and have executed Memoranda of Agreement to participate in the Activity Agreement as SS-MOA Participants; and

C. **WHEREAS**, the Groundwater Sustainability Agencies (“GSAs”) in the Delta-Mendota Groundwater Subbasin (“Subbasin”) have historically worked with disadvantaged communities to improve drinking water access; and

D. **WHEREAS**, the Coordination Committee for the Subbasin developed a Domestic Well Mitigation Policy (the “Policy”), which was approved by all of the GSAs in the Subbasin as part of the adoption of a single Groundwater Sustainability Plan (“GSP”); and

E. **WHEREAS**, the purpose of the Policy is to mitigate the effects that may be felt by domestic water users whose wells have gone dry or are in imminent threat of going dry due to groundwater levels dropping as a result of groundwater management in the Subbasin; and

F. **WHEREAS**, the Policy is intended to serve as a last line of defense to protect domestic groundwater users in the unlikely event that the Subbasin GSAs’ efforts fail to maintain those Minimum Threshold (“MT”) groundwater levels set in the single Subbasin GSP; and

G. **WHEREAS**, the Parties desire to enter into this Third Amendment to the Activity Agreement to establish the authority to create a Joint Cost Sharing Account to fund the Policy; and

H. **WHEREAS**, Section 19.1 of the Activity Agreement authorizes the amendment of the Activity Agreement if completed in writing by the Authority and the Activity Agreement Members, with approval from the SS-MOA Participants.

AGREEMENT

NOW, THEREFORE, in consideration of the true and correct facts recited above, which are hereby incorporated herein, the Activity Agreement Members and the Authority agree as follows:

1. The Activity Agreement Members hereby agree to establish a Joint Cost Sharing Account maintained in trust by the Authority and funded based on the Activity Participants' Participation Percentages as set forth in the Activity Agreement.

2. The terms of the Activity Agreement as modified by the First Amendment and the Second Amendment remain in full force and effect, except as modified by this Third Amendment.

3. This Third Amendment shall become effective once it has been executed by an authorized representative of the Authority and a majority of the Activity Agreement Members with the consent of the SS-MOA Participants, which consent may be accomplished by execution of the form attached hereto as Exhibit "A."

4. **AMENDMENT TO SECTION 2.** The Parties hereby agree to add the following three definitions to Section 2 of the Activity Agreement:

"Coordination Committee" shall mean the seven-member Delta-Mendota Subbasin Coordination Committee composed of the Northern Delta-Mendota GSA Group, the Central Delta-Mendota GSA Group, the San Joaquin River Exchange Contractors Water Authority GSA Group, the Grassland GSA Group, the Farmers Water District GSA Group, the Fresno County GSA Group, and the Aliso Water District GSA Group, created to provide overall guidance and resolve conflicts among the GSAs.

"Domestic Well Mitigation Policy" shall mean the Policy adopted by the Delta-Mendota Subbasin GSAs as part of the single GSP for the Delta-Mendota Subbasin, to mitigate the effects that may be felt by domestic water users whose wells have gone dry or are in imminent threat of going dry due to groundwater levels dropping as a result of groundwater management in the Delta-Mendota Subbasin.

"Joint Cost Sharing Account" shall mean an account maintained in trust by the Authority funded by Activity Participants based on their corresponding Participation Percentage, specifically to fund activities in accordance with the Delta-Mendota Subbasin Domestic Well Mitigation Policy.'

5. **AMENDMENT TO SECTION 2.** All definitions within Section 2 of the Activity Agreement, including the newly added definitions, are hereby renumbered sequentially to reflect the proper order. Any references to definition numbers throughout the Activity Agreement shall be deemed to refer to the appropriate renumbered definition.

6. **AMENDMENT TO SECTION 4.2.** The Parties hereby agree to add the following to Section 4.2 of the Activity Agreement:

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7. **AMENDMENT TO SECTION 5.2.** The Parties hereby agree to add the following to Section 5.2 of the Activity Agreement:

“(g) To conduct all necessary research and investigations in accordance with the Delta-Mendota Subbasin Domestic Well Mitigation Policy.”

8. **AMENDMENT TO SECTION 8.** The Parties hereby agree to add the following to Section 8 of the Activity Agreement:

“8.4 Domestic Well Mitigation Policy Funding. To fund the Domestic Well Mitigation Program, the Coordination Committee GSA groups agree to fund, according to their Participation Share, a total of \$300,000 into an interest-bearing Joint Cost Sharing Account. This account shall be funded with \$100,000 per year, for the first three years. Thereafter, the Coordination Committee shall annually review this Policy to determine if that fund is adequate or if additional funds are required. In the event additional funds are needed, a unanimous vote of the Coordination Committee will be required to increase the funding beyond \$300,000.

GSAs may request use of the funds pursuant to the Domestic Well Mitigation Policy. Thereafter, the account shall be reimbursed by the GSA in whose jurisdiction the funds were expended for mitigation pursuant to the Domestic Well Mitigation Policy.”

9. **AMENDMENT TO SECTION 9.** The Parties hereby agree to delete Section 9 of the Activity Agreement in its entirety and replace Section 9 with the following:

“9. **ACCOUNTABILITY, REPORTS AND AUDITS**

9.1. Full books and accounts for this Activity Agreement, including the Joint Cost Sharing Account, shall be maintained by the Authority in accordance with practices established by, or consistent with, those utilized by the Controller of the State of California for public entities. The books and records shall be open to inspection by the Activity Participants at all reasonable times, and by bondholders and lenders as and to the extent provided by resolution or indenture.

9.2. There shall be strict accountability of all funds deposited on behalf of the Activity Agreement with the Authority. The Authority shall manage and maintain a Joint Cost Sharing Account ledger detailing funds deposited and expensed in accordance with the Domestic Well Mitigation Policy. The Treasurer of the Authority, directly or acting through its Accounting Department, shall provide regular reports of Activity Agreement accounts. Funds of the Activity Agreement shall be subject to audit by the official auditor

of the Authority. An Activity Participant may request an independent audit of the Activity Agreement funds, including those in the Joint Cost Sharing Account; any such audit shall be conducted at the expense of the requesting Activity Participant.”

10. **AMENDMENT TO SECTION 11.3.** The Parties hereby agree to delete Section 11.3 of the Activity Agreement in its entirety and replace Section 11.3 with the following:

“11.3. Invoicing and Payment. The Authority shall bill the Activity Participants for all Activity Agreement Expenses and Special Project Expenses, including the corresponding Joint Cost Sharing Account contribution, in their respective Participation Percentages on the same schedule as it utilizes for collecting membership dues to implement the Authority budget for each March 1 through the last day in February the following year, generally twice yearly in mid-March and August of such year. Payments are due 30 days following receipt of the Authority’s invoice.”

11. **AMENDMENT TO SECTION 14.** The Parties hereby agree to add the following to Section 14 of the Activity Agreement:

“14.5 In the event of either a voluntary withdrawal or deemed withdrawal by an Activity Participant, that Activity Participant shall remain liable for all funds withdrawn from the Joint Cost Sharing Account. Within thirty (30) days of withdrawing, the withdrawing Activity Participant shall refund all such funds withdrawn from the Joint Cost Sharing Account.”

12. In the event of any conflict between the terms of this Third Amendment and the Activity Agreement, First Amendment, or Second Amendment, the terms of this Third Amendment shall control.

13. This Third Amendment may be signed by the Parties in different counterparts and the signature pages combined to create one document binding on all parties.

IN WITNESS WHEREOF, the Members and the Authority have executed this Third Amendment as of the date appearing next to their respective signature lines.

SAN LUIS & DELTA-MENDOTA WATER AUTHORITY

BY: _____

Name: _____

Title: _____

Date: _____

ACTIVITY AGREEMENT MEMBERS

Agency Name: **DEL PUERTO WATER DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **PATTERSON IRRIGATION DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **WEST STANISLAUS IRRIGATION DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Exhibit "A"

**SS-MOA PARTICIPANT CONSENT TO THIRD AMENDMENT
TO THE NORTHER DELTA-MENDOTA REGION
SUSTAINABLE GROUNDWATER MANAGEMENT ACT
SERVICES ACTIVITY AGREEMENT**

The undersigned duly authorized representative of the SS-MOA Participant that has entered into a Memorandum of Agreement for Northern Delta-Mendota Region Sustainable Groundwater Management Act Services with the San Luis & Delta-Mendota Water Authority hereby consents on behalf of such SS-MOA Participant to the Third Amendment to the Northern Delta-Mendota Region Sustainable Groundwater Management Act Services Activity Agreement.

SS-MOA PARTICIPANT

Agency Name: **CITY OF PATTERSON**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **OAK FLAT WATER DISTRICT**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **COUNTY OF STANISLAUS**

BY: _____

Name: _____

Title: _____

Date: _____

Agency Name: **COUNTY OF MERCED**

BY: _____

Name: _____

Title: _____

Date: _____

AMENDED AND RESTATED COST SHARING AGREEMENT

Delta-Mendota Subbasin Coordination

This Amended and Restated Cost Sharing Agreement (“**Agreement**”) is made effective as of _____, 2024 by and among the groundwater sustainability agencies within the Delta-Mendota Subbasin (“**GSAs**”) (listed below) and the San Luis & Delta-Mendota Water Authority (“**SLDMWA**”). The GSAs and SLDMWA may be referred to herein individually as a “**Party**” or jointly as “**Parties**.” For purposes of this Agreement, the “**Effective Date**” shall be the date the last Party executes this Agreement.

RECITALS

A. The Sustainable Groundwater Management Act (“**SGMA**”) requires all groundwater subbasins designated as high or medium priority to manage groundwater in a sustainable manner.

B. The Delta-Mendota Subbasin (Basin Number 5-22.07, DWR Bulletin 118) within the San Joaquin Valley Groundwater Basin (“**Subbasin**”), has been designated as a high-priority basin by the California Department of Water Resources (“**DWR**”).

C. The Delta-Mendota Subbasin includes multiple GSAs that intend to manage the Subbasin through the development and implementation of a single groundwater sustainability plan (“**GSP**”). The single GSP was adopted and finalized as of September 2024 and supersedes and replaces the prior six coordinated groundwater sustainability plans in the Subbasin.

D. The GSA Parties to this Agreement (“**GSA Parties**”) have organized into GSA groups (“**GSA Groups**”) and have agreed to be represented by “**GSA Group Representatives**” on the Coordination Committee, on terms to be developed and implemented by separate agreements between each GSA Group and the GSA Parties within such GSA Group.

E. The GSA Groups desire to dictate terms describing the mechanisms for the sharing of the costs associated with the coordination activities described below and in that certain “Memorandum of Agreement Among the Delta-Mendota Subbasin Groundwater Sustainability Agencies” (“**MOA**”) executed by all the GSA Parties. The MOA continues the existence of a Coordination Committee (“**Coordination Committee**”) to provide the forum for the GSA Parties to accomplish the coordination obligation of SGMA and enumerates the Coordination Committee’s responsibilities. The MOA also establishes the roles of Secretary and Plan Manager and enumerates their respective responsibilities.

F. The SLDMWA has been assisting the GSAs with SGMA compliance, and is still acting as the initial Secretary of the Coordination Committee (“**Secretary**”) and the initial Plan Manager with respect to the Coordination Agreement (“**Plan Manager**”). As part of that effort, the SLDMWA and/or its agents agrees to undertake all activities required of it under the MOA, so long as each GSA Group reimburses the SLDMWA for that GSA Group’s apportioned share of the “**Coordinated Plan Expenses**,” described in Section 2 below.

G. The Parties desire to enter into this Agreement to refine and update the Parties' informal agreements prior to the date of execution and to accomplish all of the foregoing matters on the terms and conditions set forth herein.

NOW, THEREFORE, based on the Recitals set forth above and, on the terms and conditions set forth herein, the Parties agree as follows:

1. Administrative Coordination. For so long as desired by the Coordination Committee, the SLDMWA will be responsible for undertaking all activities required of it under the MOA including, but not limited to: intrabasin coordination; activities required in its role as Secretary; activities required in its role as Plan Manager; and entering into professional services agreement(s) and any supplemental agreements required for the consultant work necessary to meet the objectives of the MOA.

2. Coordinated Plan Expenses. The Parties agree that **Coordinated Plan Expenses** incurred under the MOA shall mean any expenses incurred by the Secretary and Plan Manager at the direction of the Coordination Committee within approved annual cost estimates pursuant to Section 5 of this Cost Sharing Agreement for purposes of developing and implementing the MOA, including actual expenses incurred in executing obligations under the MOA for intrabasin and interbasin coordination beginning in August 2017 and continuing through the implementation of SGMA. The GSA Parties agree to make payments for Coordinated Plan Expenses through their GSA Groups, described in Section 6 below.

3. Participation Percentages. The Parties acknowledge and agree that the participation percentages in Exhibit "A" ("**Participation Percentages**") shall be utilized to determine the share of Coordinated Plan Expenses allocated to each GSA Group.

a. Initial Participation Percentages. Coordinated Plan Expenses will be paid proportionally by each GSA Group through the Responsible Agency to Invoice ("**Responsible Agency**") identified on Exhibit "A," pursuant to each GSA Group's respective Participation Percentage, which is set in equal percentages, as indicated in Exhibit "A."

b. Updated Participation Percentages. Participation Percentages may be evaluated by the Coordination Committee from time to time, but not more frequently than annually, including to consider new information concerning the relative contribution or responsibility of each GSA Group towards achieving the Subbasin-wide sustainability goal of the single GSP.

c. Ongoing Documentation of Participation Percentages. The most current Participation Percentages of each GSA Group shall be dated and attached as Exhibit "A" to this Agreement, effective upon the date approved by the Parties under delegated authority by their respective GSA Groups, without any further Amendment to this Agreement being required.

4. Obligations Outside of Cost Sharing Agreement. It is the responsibility and obligation of each GSA Party under this Agreement that is part of a multi-party GSA Group to provide documentation to the Secretary and the Coordination Committee establishing that such

GSA Group has a binding agreement or mechanism assuring that the GSA Group will pay its Participation Percentage set forth on Exhibit “A,” as said Exhibit “A” may be modified or amended from time to time (pursuant to a modification or amendment of this Agreement under Section 14, below), including documentation of provisions regarding the default or withdrawal of any GSA Party within such GSA Group. Provided that, the Secretary shall not be obligated to evaluate or provide an opinion on the legal sufficiency of the documentation.

5. Cost Estimates. The SLDMWA will obtain and provide the GSA Groups, through the GSA Group Representatives on the Coordination Committee, with a written estimate (“**Estimate**”) of the cost of each task required for executing its obligations under the MOA prior to March 1 each year, and as new tasks arise. Each Estimate will be subject to approval by the Coordination Committee, pursuant to the MOA. The SLDMWA shall account for Coordinated Plan Expenses in accordance with standard public agency accounting procedures and shall invoice amounts to be collected from the GSA Groups in accordance with Section 6 below. All costs related to workgroups shall be the responsibility of each Party providing the workgroup participant.

6. Invoicing and Payment. The SLDMWA shall bill the GSA Groups, through the Responsible Agency identified on Exhibit “A,” for all Coordinated Plan Expenses based upon their respective Participation Percentages, upon receipt of each individual invoice. Payment is due from each Responsible Agency thirty (30) days following receipt of the invoice by the Responsible Agency. Amounts in arrears for more than thirty (30) days shall earn interest at the applicable legal rate. Each Responsible Agency is responsible to collect payment from members of its GSA Group, if any.

7. Reporting. The SLDMWA shall present a cumulative Coordinated Plan Expense report to the GSA Groups on a monthly basis, through the Responsible Agency identified on Exhibit “A.” Each Invoice, described in Section 6 above, shall be accompanied by a Coordinated Plan Expenses report (“**Report**”). The Report shall consist of a cumulative itemized statement of all costs and expenses incurred pursuant to the Coordination Agreement and any disbursement of funds received by the SLDMWA under this Agreement.

8. Records. The SLDMWA shall maintain separate records regarding Coordinated Plan Expenses, including records of billing and payment and other documents related to the execution of its obligations under the MOA. The GSA Parties and their designated agents that have made a contribution shall have the right to inspect all records maintained by the SLDMWA associated with this Agreement at any time within normal business hours, with fifteen (15) business days’ advance notice to the SLDMWA in writing.

9. Notice. Whenever notice is required to be in writing, it shall be provided to the GSA Groups, through the Responsible Agency identified on Exhibit “A.” Notice shall be provided to the SLDMWA at the following address:

San Luis & Delta-Mendota Water Authority
P.O. Box 2157
Los Banos, CA 93635
Attn: John Brodie

E-mail: john.brodie@sldmwa.org

If sent by United States Mail, notice will be considered to have been given forty-eight (48) hours after it has been deposited in the United States Mail, addressed as set forth above, with postage prepaid. If sent by overnight delivery service, notice will be considered to have been given twenty-four (24) hours after it has been deposited with the overnight delivery service. Any GSA Group may change the Responsible Agency for notice or that Responsible Agency's address for these purposes by giving written notice of the change to all other Parties. The SLDMWA may also change its address or contact by giving written notice of the change to all other Parties.

10. Law Governing. This Agreement is made in the State of California under the constitution and laws of the State of California and is to be so construed.

11. Section Headings. All section headings in this Agreement are for convenience of reference only and are not to be construed as modifying or governing this language in the section referred to or to define or limit the scope of any provision of this Agreement.

12. Entire Agreement. This Agreement (including the preamble and Recitals) constitutes the entire Agreement between the Parties and supersedes prior agreements or discussions relating to the matters set forth herein, if any, both written and oral.

13. Severability. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect.

14. Modification or Amendment. The Parties hereby agree that, this Agreement may be supplemented, amended, or modified only by the mutual written agreement of the Parties. No supplement, amendment, or modification of this Agreement shall be binding unless it is in writing and signed by all Parties.

15. Withdrawal.

a. Withdrawal by a GSA Party. A GSA Party may withdraw from this Agreement without causing or requiring termination of this Agreement, effective upon thirty (30) days written notice to all other Parties. Any GSA Party who withdraws shall remain obligated to pay its share of all Coordinated Plan Expenses accrued prior to the effective date of such withdrawal. The SLDMWA will notify DWR within thirty (30) days of any GSA Party's withdrawal from this Agreement.

b. Withdrawal by the SLDMWA. The SLDMWA may withdraw from this Agreement effective: (1) upon notification by the Coordination Committee that the SLDMWA's services are no longer required as Secretary and Plan Manager; or (2) upon thirty (30) days written notice by the SLDMWA to the GSA Parties. In the event the SLDMWA withdraws from this Agreement, such withdrawal shall terminate this Agreement, unless the Coordination Committee names a successor Secretary and Plan Manager pursuant to the MOA, and the Parties and such successor entity or entities agree to continue the Agreement with the successor Secretary and Plan Manager agreeing to assume the role of the SLDMWA. If the Agreement continues between the GSA Parties and a successor to the SLDMWA,

the SLDMWA agrees to reasonably cooperate in the transition to its successor; provided, the SLDMWA shall not be liable for performance of duties under this Agreement following the Coordination Committee's notice or the thirty (30)-day notice period set forth in this subsection, whichever is applicable.

16. Term. As modified pursuant to Section 14, this Agreement shall continue for a term coterminous with the requirements of SGMA.

17. Indemnification. The Parties agree that the GSA Parties shall, in proportion to the respective Participation Percentages of their GSA Groups, hold the SLDMWA free and harmless from and indemnify the SLDMWA against any and all costs, losses, damages, claims, and liabilities arising from this Agreement, unless such costs, losses, damages, claims, or liabilities are attributable to the sole negligence or willful misconduct of the SLDMWA. The Parties acknowledge that each GSA Group intends to pay only its share of Coordinated Plan Expenses, but acknowledge that the GSA Group may be required to pay an adjusted Participation Percentage (pursuant to a modification or amendment of this Agreement under Section 14, above) to meet its obligation to the SLDMWA and seek its remedy against any defaulting GSA Group.

18. Construction of Agreement. The Parties acknowledge that each Party has informed and able counsel to advise it concerning the terms of this Agreement and agree that no Party shall be deemed the drafting Party in any dispute involving construction of the terms of the Agreement.

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

20. No Partnership. The Parties hereto do not intend to create a partnership for federal income tax purposes or state law purposes, and nothing herein shall be construed to create such a partnership. The provisions set forth in this Agreement, and the respective obligations of each Party hereto, shall be construed consistently with such intent.

21. Procedures for Resolving Conflicts. In the event of any dispute arising from or relating to this Agreement, and not including disputes arising from the inability of the Coordination Committee to reach a unanimous decision, the disputing Party shall, within thirty (30) calendar days of discovery of the events giving rise to the dispute, notify all Parties to this Agreement in writing of the basis for the dispute. Within thirty (30) calendar days of receipt of said notice, all interested Parties shall meet and confer in a good faith attempt to informally resolve the dispute. All disputes that are not resolved informally shall be settled by non-binding arbitration. Within ten (10) days following the failed informal proceedings, each interested Party shall nominate and circulate to all other interested Parties the name of one arbitrator. Within ten (10) days following the nominations, the interested Parties shall rank their top three among all nominated arbitrators, awarding 3 points to the top choice, 2 points to the second choice, 1 point to the third choice, and zero points to all others. Each interested Party shall forward its tally to the SLDMWA, who shall tabulate the points and notify the interested Parties of the name of the arbitrator with the highest cumulative score, who shall be the selected arbitrator. The SLDMWA may also develop procedures for approval by the Parties, for selection in the case of tie votes or in order to replace the selected arbitrator in the event such arbitrator declines or ceases to act. The arbitration shall be administered in accordance

with the procedures set forth in the California Code of Civil Procedure, section 1280, et seq., and of any state or local rules then in effect for arbitration pursuant to said section. Upon completion of arbitration, if the controversy has not been resolved, any Party may exercise all rights to bring a legal action relating to the controversy. Any dispute resolution or arbitration under this Section, however, will not terminate the Parties' obligations under Sections 2, 4, and 6 nor the Parties' obligations under Section 16.

22. Authorized Signature. Each Party represents that the individual signing this Agreement on its behalf is duly authorized to execute this Agreement and will legally bind that Party to the terms of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

Dated: _____ **ALISO WATER DISTRICT GSA**

Print Name: _____
Print Title: _____

Dated: _____ **CENTRAL DELTA-MENDOTA GSA**

Print Name: _____
Print Title: _____

Dated: _____ **CITY OF DOS PALOS GSA**

Print Name: _____
Print Title: _____

Dated: _____ **CITY OF FIREBAUGH GSA**

Print Name: _____
Print Title: _____

Dated: _____ **CITY OF GUSTINE GSA**

Print Name: _____
Print Title: _____

Dated: _____

CITY OF LOS BANOS GSA

Print Name: _____

Print Title: _____

Dated: _____

CITY OF MENDOTA GSA

Print Name: _____

Print Title: _____

Dated: _____

CITY OF NEWMAN GSA

Print Name: _____

Print Title: _____

Dated: _____

CITY OF PATTERSON GSA

Print Name: _____

Print Title: _____

Dated: _____

COUNTY OF MADERA-3 GSA

Print Name: _____

Print Title: _____

Dated: _____

**COUNTY OF MERCED DELTA-MENDOTA
GSA**

Print Name: _____

Print Title: _____

Dated: _____

DM II GSA

Print Name: _____

Print Title: _____

Dated: _____

FARMERS WATER DISTRICT GSA

Print Name: _____

Print Title: _____

Dated: _____

**FRESNO COUNTY MANAGEMENT AREA A
GSA**

Print Name: _____

Print Title: _____

Dated: _____

**FRESNO COUNTY MANAGEMENT AREA B
GSA**

Print Name: _____

Print Title: _____

Dated: _____

GRASSLAND GSA

Print Name: _____

Print Title: _____

Dated: _____

NORTHWESTERN DELTA-MENDOTA GSA

Print Name: _____

Print Title: _____

STANISLAUS COUNTY

Print Name: _____

Print Title: _____

APPROVED AS TO FORM

By: _____

Dated: _____

ORO LOMA WATER DISTRICT GSA

Print Name: _____

Print Title: _____

Dated: _____

PATTERSON IRRIGATION DISTRICT GSA

Print Name: _____

Print Title: _____

Dated: _____

**SAN JOAQUIN RIVER EXCHANGE
CONTRACTORS WATER AUTHORITY GSA**

Print Name: _____

Print Title: _____

Dated: _____

TURNER ISLAND WATER DISTRICT-2 GSA

Print Name: _____

Print Title: _____

Dated: _____

**WEST STANISLAUS IRRIGATION DISTRICT
GSA 1**

Print Name: _____

Print Title: _____

Dated: _____

WIDREN WATER DISTRICT GSA

Print Name: _____

Print Title: _____

EXECUTING NOT AS A PARTY:

Dated: _____

**SAN LUIS & DELTA-MENDOTA WATER
AUTHORITY**

Print Name: _____

Print Title: _____

EXHIBIT A – GSA Groups and Responsible Agencies to Invoice

	Groundwater Sustainability Agency Group	Responsible Agency to Invoice / Address	Participation Percentage
1	Central Delta-Mendota Region – 1 Representative Central Delta-Mendota GSA Oro Loma Water District GSA Widren Water District GSA	San Luis & Delta-Mendota Water Authority (for invoices) P.O. Box 2157 Los Banos, CA 93635 Attn: John Brodie Santa Nella County Water District (for other invoices) 12931 S Hwy 33 Santa Nella, CA 95322 Attn: Amy Montgomery	1/7
2	San Joaquin River Exchange Contractors – 1 Representative City of Dos Palos GSA City of Firebaugh GSA City of Gustine GSA City of Los Banos GSA City of Mendota GSA City of Newman GSA Madera County GSA Merced County Delta-Mendota GSA San Joaquin River Exchange Contractors GSA Turner Island Water District-2 GSA	San Joaquin River Exchange Contractors 541 H Street P.O. Box 2115 Los Banos, CA 95363 Attn: Chris White	1/7
3	Farmers Water District – 1 Representative Farmers Water District GSA	Farmers Water District 4460 W. Shaw Ave., #219 Fresno, CA 93722 Attn: Jim Stillwell	1/7
4	Aliso Water District – 1 Representative Aliso Water District GSA	Aliso Water District 10302 Avenue 7-1/2 Firebaugh, CA 93622 Attn: Roy Catania	1/7
5	Grassland GSAs Group – 1 Representative Grassland GSA Merced County Delta-Mendota GSA	Grassland Water District 200 W. Willmont Ave. Los Banos, CA 93635 Attn: Ricardo Ortega	1/7

6	Fresno County Management Area A & B – 1 Representative Fresno County Management Area A GSA Fresno County Management Area B GSA	County of Fresno Department of Public Works and Planning 2220 Tulare St., 6th Floor Fresno, CA 93721 Attn: Division of Water and Natural Resources	1/7
7	Northern Delta-Mendota Region – 1 Representative City of Patterson GSA DM-II GSA Northwestern Delta-Mendota GSA Patterson Irrigation District GSA West Stanislaus Irrigation District-GSA 1	San Luis & Delta-Mendota Water Authority (for invoices) P.O. Box 2157 Los Banos, CA 93635 Attn: John Brodie West Stanislaus Irrigation District (for other notices) 116 E Street P.O. Box 37 Westley, CA 95387 Attn: Robert Pierce	1/7