

MEMORANDUM OF UNDERSTANDING AND AGREEMENT FOR COSUMNES SUB-BASIN GROUNDWATER MONITORING ASSOCIATION AND COST-SHARING FOR DEVELOPMENT AND IMPLEMENTATION OF CASGEM PROGRAM

This Memorandum of Understanding and Agreement (“MOU”) is dated and effective this ___ day of _____, 2016 by and between the Southeast Sacramento Agricultural Water Authority, a joint powers authority formed under Government Code section 6500 and following (“SSCAWA”), the County of Sacramento, a political subdivision of the State of California (“County”), and the City of Galt, a political subdivision of the State of California (“Galt”). The parties to this MOU are individually referred to herein as “Party” and collectively referred to herein as “Parties.”

RECITALS

WHEREAS, Water Code section 10920 and following, and the regulations enacted thereunder, require that all groundwater basins in the state be subject to the California Statewide Groundwater Elevation and Monitoring program (“CASGEM”) on or before January 1, 2012; and

WHEREAS, Water Code section 10927 identifies the public entities that may assume responsibility for monitoring and reporting groundwater elevations (“Monitoring Entity”) under CASGEM; and

WHEREAS, in an area where no Monitoring Entity has been identified, the California Department of Water Resources (“DWR”) is required by Water Code section 10933.5 to perform the monitoring functions required by CASGEM; and

WHEREAS, in the event that DWR assumes CASGEM monitoring responsibilities for an area, certain agencies designated as eligible Monitoring Entities shall be considered ineligible for state water grant or loan funding, including counties and Groundwater Sustainability Agencies (Water Code § 10933.7); and

WHEREAS, DWR has identified those portions of the San Joaquin Valley Cosumnes Sub-basin (Basin No. 5-22.16) described in Exhibit A as areas in which groundwater elevations are not currently monitored or reported by a Monitoring Entity (“Unmonitored Area”); and

WHEREAS, the Parties each have jurisdiction in all or a portion of the Unmonitored Area; and

WHEREAS, the Parties wish to ensure that the County, SSCAWA entities, and other applicable entities be eligible for state water loan or grant funding and will not be denied eligibility as a result of the lack of a CASGEM program in the Unmonitored Area; and

WHEREAS, Luhdorff and Scalmanini, Consulting Engineers (“LSCE”) has submitted a Budget and Scope of Work for the development of a CASGEM program for the Unmonitored Area (“CASGEM Proposal”). The estimated budget for the CASGEM Proposal is \$12,000; and

WHEREAS, the California Water Code allows for the formation of voluntary cooperative groundwater monitoring associations formed for the purposes of monitoring groundwater elevations in accordance with the CASGEM program. An association may be established by contract, a joint powers agreement, a memorandum of agreement, or other form of agreement deemed acceptable by DWR; and

WHEREAS, SSCAWA has performed outreach to the stakeholder entities within the Unmonitored Area listed in Exhibit B to solicit participation in this MOU; and

WHEREAS, the Parties, as the responsive stakeholders in the Unmonitored Area, desire to enter into this MOU to form a groundwater monitoring association to implement the CASGEM Proposal and to establish cost-sharing obligations for the same.

In this context, the Parties enter into the following understanding and agreement:

1. Cosumnes Sub-basin Groundwater Monitoring Association.

a. The Parties shall form the Cosumnes Sub-basin Groundwater Monitoring Association (“Association”).

b. An Administering Agency will be appointed by the members of the Association from time to time by unanimous agreement of each Party’s designated representative and will be responsible for communication and reporting to DWR for purposes of CASGEM compliance. SSCAWA will be the initial Administering Agency.

c. The Association, led by the Administering Agency, will develop the CASGEM Proposal, including the performance of any necessary environmental review pursuant to the California Environmental Quality Act (“CEQA”). After development of the CASGEM Proposal is complete, the members of the Association will, in accordance with the provisions of this MOU and in compliance with CEQA, determine whether to approve the final CASGEM Proposal (“Final CASGEM Proposal”).

d. The Parties will meet at least once per calendar quarter in Sacramento County, California to review the status of the CASGEM Proposal. All of the Parties will be provided with written progress reports and other documentation describing the status of the CASGEM Proposal.

e. A member of the Association may disassociate upon 30 day’s notice to the other members and payment of the disassociating member’s share of costs as of the date of disassociation.

2. Review, Approval, and Implementation of CASGEM Proposal. Following completion of the CASGEM Proposal, the Parties will meet and confer to determine whether the Parties desire to participate in additional CASGEM-related activities, including implementation of the Final CASGEM Proposal. In the event the Parties elect to participate in additional activities related to the Final CASGEM Proposal, the Parties will, for a period of one hundred eighty (180) days following issuance of the Final CASGEM Proposal (“Review Period”),

negotiate in good faith with each other regarding the terms and conditions of one or more agreements to move forward with CASGEM-related activities. The negotiations will be consistent with the principle of equitable distribution of CASGEM benefits and costs. The Review Period may be extended by written agreement executed by the Parties. Following expiration of the Review Period, if one or more agreements to move forward with CASGEM-related activities have not been executed by the Parties, the Parties will have no further obligations to each other regarding the implementation of the Final CASGEM Proposal, and the Parties will be free to negotiate with any other person or entity regarding implementation of the Final CASGEM Proposal.

3. Agreement to Share Costs. The Parties agree to share the professional fees and costs of developing the CASGEM Proposal according to the following cost share, based on the scope of work and cost estimate set forth in Exhibit C attached hereto and incorporated herein:

Party	Cost Share
County	\$ 4,000.00
SSCAWA	\$ 4,000.00
Galt	\$ 4,000.00

No Party will have any obligation to pay any fees or costs arising from or relating to the CASGEM Proposal in excess of the maximum contributions specified in Exhibit C absent a written agreement executed by the Party against whom additional fees or costs are to be imposed.

4. Contracting for CASGEM Proposal. The Administrating Agency shall contract with LSCE for the CASGEM Proposal. The Administrating Agency will submit invoices to each of the Parties for work based on the cost-share percentages specified in Section 3 of this Memorandum. SSCAWA will serve as LSCE’s principal point of contact for contract administration purposes.

5. No Commitment to Approve or Implement CASGEM Proposal. Notwithstanding any provision of this Memorandum, the Parties have made no determinations or commitments whatsoever to approve or implement the Final CASGEM Proposal. The Parties agree that no determinations or commitments to approve or implement the Final CASGEM Proposal can or will be made until environmental review of the Final CASGEM Proposal is completed in accordance with the California Environmental Quality Act and other applicable laws. All of the Parties retain full and absolute discretion to decline further participation following completion of the work described in Exhibit C.

6. No Additional CASGEM-Related Obligations. Except as expressly provided in this Memorandum, the Parties will have no obligations to participate financially or otherwise in CASGEM planning, feasibility analysis, design, construction or implementation.

7. Amendment. This Memorandum may be amended from time to time. No alteration, amendment, or variation of this Memorandum shall be valid unless made in writing and signed by all Parties. The County Director of the Department of Water Resources shall have delegated authority to, on behalf of the County, agree to and execute an amendment that designates a lead agency for purposes of the California Environmental Quality Act (“CEQA”).

7. Attorneys’ Fees. In the event of a civil action to enforce any obligation under this Memorandum of Understanding, the prevailing party shall be entitled to an award of reasonable attorneys’ fees and costs (including but not limited to reasonable expert witness fees and costs) incurred in connection with such litigation.

8. Entire Agreement. This instrument constitutes the entire agreement and understanding between the Parties with respect to the subject matters hereof, and supersedes and replaces any prior agreements and understandings, whether oral or written, by and between them with respect to such matters.

9. Counterparts. This Memorandum may be executed in any number of counterparts, each of which shall be deemed to be an original instrument, but all of which together shall constitute one and the same instrument.

10. Authority to Execute. Each person executing this Memorandum represents and warrants that he or she is duly authorized and has legal authority to execute and deliver this Memorandum for or on behalf of the parties to this Memorandum. Each Party represents and warrants to the other(s) that the execution and delivery of the Memorandum and the performance of such Party’s obligations hereunder have been duly authorized.

IN WITNESS WHEREOF, the parties hereto have entered into this instrument as of the Effective Date set forth above.

SOUTHEAST SACRAMENTO COUNTY AGRICULTURAL WATER AUTHORITY

By: _____

Title: _____

Date: _____

COUNTY OF SACRAMENTO

By: _____

Title: _____

Date: _____

CITY OF GALT

By: _____

Title: _____

Date: _____

Exhibit A:
Basin Map

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Exhibit B:

Stakeholders Solicited for MOU Participation

- County of Sacramento
- City of Galt
- Sloughhouse Resource Conservation District
- Southeast Sacramento County Agricultural Water Authority
- Galt Irrigation District
- Clay Water District
- Omochumne-Hartnell Water District

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Exhibit C:

CASGEM Proposal Scope of Work

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