

**MEMORANDUM OF AGREEMENT BETWEEN SOUTH SAN JOAQUIN
IRRIGATION DISTRICT, THE CITY OF RIPON AND THE CITY OF ESCALON TO
FORM THE SOUTH SAN JOAQUIN GROUNDWATER SUSTAINABILITY AGENCY**

This Memorandum of Agreement ("MOA") dated (enter date) is entered into between the South San Joaquin Irrigation District ("SSJID"), the City of Ripon and the City of Escalon, collectively referred to as the "Parties." The Parties are located in the Eastern San Joaquin Groundwater Subbasin as defined by the Department of Water Resources Bulletin 118 ("Bulletin 118") and are subject to the Sustainable Groundwater Management Act as defined below.

RECITALS

WHEREAS, on September 16, 2014 Governor Jerry Brown signed into law the Sustainable Groundwater Management Act (Senate Bills 1168 and 1319 and Assembly Bill 1739) codified in Part 2.74 of Division 6 of the California Water Code, commencing with section 10720 ("the Act"); and

WHEREAS, the Act went into effect on January 1, 2015; and

WHEREAS, the legislative intent of the Act is to provide sustainable management of groundwater basins, to enhance local management of groundwater, to establish minimum standards for sustainable groundwater management, and to provide local groundwater agencies with the authority and the technical and financial assistance necessary to sustainably manage groundwater; and

WHEREAS, the Parties overlie the southern portion of the Eastern San Joaquin groundwater subbasin (DWR Bulletin 118 No. 5-22.01) ("Basin"), a Bulletin 118 designated high priority basin that is in critical overdraft; and

WHEREAS, the Act requires that basins designated as high priority be managed by one or more Groundwater Sustainability Agencies ("GSA") and that GSAs develop and implement one or more Groundwater Sustainability Plans ("GSP") for such basins; and

WHEREAS, the Act provides that any local agency or combination of agencies overlying a groundwater basin may decide to become or to form a GSA ; and

WHEREAS, the Act defines a local agency as a local public agency that has water supply, water management, or land use responsibilities within a groundwater basin and each of the Parties is a local agency as defined by the Act; and

WHEREAS, the Act provides that a combination of local agencies may form a GSA through a joint powers agreement, a memorandum of agreement or other legal agreement; and

WHEREAS, the Parties share the goal of achieving cost-effective sustainable groundwater management in the Basin that meets the requirements of the Act, as it may be

amended in the future, including considering the interests of all beneficial uses and users of groundwater in the Basin; and

WHEREAS, the Parties intend by this MOA to set forth the framework and agreement under which the Parties will work together to elect to become the South San Joaquin GSA (SSJGSA), in order to collectively develop a GSP for the Managed Area as defined below, whether that is a separate GSP, a regional GSP or a Basin-wide GSP and manage the groundwater in the Managed Area in accordance with the GSP, and to work cooperatively with other GSAs in the Basin as necessary to do so, and

WHEREAS, the Parties intend to negotiate and enter into coordination agreements as required by the Act.

NOW, THEREFORE, it is mutually understood and agreed as follows:

SECTION 1: PURPOSE

The Parties hereby establish the South San Joaquin Groundwater Sustainability Agency to manage the portion of the Eastern San Joaquin Subbasin within the Parties' collective jurisdictions. The purpose of this MOA is to establish a framework to govern the actions of the SSJGSA. These actions include the development and implementation of a GSP for the Managed Area. The Parties intend to collaborate with other local agencies in the potential development of a Basin-wide GSP that is consistent with the goals, interests, authorities and responsibilities of the Parties. The Parties also have discretion under this MOA to form a separate GSP for the Managed Area and to work collaboratively with other GSAs within the Basin to enter into Coordination Agreements as required by the Act. In addition, in the future, the Parties may decide to form a new entity in order to serve as the GSA under a Joint Powers Agreement.

In developing, adopting and implementing a GSP for the Managed Area, or in any coordination with other GSAs and other interests in developing and implementing a Basin-wide GSP that is consistent with the Parties' goals and objectives for the Managed Area, it is each Party's intent, goal and objective to maintain complete control and autonomy over the surface water supplies, water facilities, water operations, groundwater supplies and assets to which each Party and each Party's constituents are legally entitled. Nothing in this MOA requires any contribution or commitment by a Party to share or otherwise contribute that Party's Water Assets as part of the development or implementation of a GSP without that Party's written consent.

SECTION 2: DEFINITIONS

The following terms, whether used in the singular or plural, and when used with initial capitalization, shall have the meanings specified herein.

2.1 Act: Refers to the Sustainable Groundwater Management Act as defined in the Recitals, including any amendments to the Act.

2.2 Governing Body: Means the legislative body, i.e. governing board, of each Party to this MOA.

2.3 Governing Board: Refers to the SSJGSA Board created and described in Section 3.1 of this MOA.

2.4 Groundwater Sustainability Agency (GSA): Is defined in the Recitals and refers to a groundwater sustainability agency as defined in the Act.

2.5 Groundwater Sustainability Plan (GSP): Is defined in the Recitals, and refers to a groundwater plan as defined in the Act, including the groundwater management plan to be developed by the Parties to this MOA pursuant to the Act.

2.6 Memorandum of Agreement (MOA): Refers to this Memorandum of Agreement.

2.7 GSA Staff: Refers to any Party's staff, including contracted consultants tasked with carrying out the technical work necessary to implement the Act's provisions.

2.8 Basin: Is defined in the Recitals and refers to the Eastern San Joaquin groundwater subbasin.

2.9 Managed Area: Is defined as the area reflected in the Map attached as Exhibit A and incorporated herein.

2.10 Party: Refers to each agency that is a signatory to this MOA.

2.11. Water Assets: Refers to all surface water supplies, water facilities, water operations, groundwater supplies, and any other water-related assets to which each Party and each Party's constituents are legally entitled.

2.12. Board Member: Refers to a member of the Governing Board, as defined in Section 2.3.

2.13. GSP Regulations: Refers to the Emergency Regulations for Groundwater Sustainability Plans and Alternatives that were adopted by the California Water Commission on May 18, 2016 (Cal. Code Regs., Title 23, Division 2, Chapter 1.5, Subchapter 2. Groundwater Sustainability Plans).

SECTION 3: GOVERNANCE

3.1 Governing Board. The GSA shall be governed by a five member Governing Board. Three Board Members will be representatives of SSJID, one Board Member shall be a representative of the City of Ripon, and one Board Member shall be a representative of the City of Escalon. Each Board Member must be appointed by the Governing Body of the Party being

represented. The Members may, but are not required to be, elected members of the Governing Bodies of the Parties. Each Board Member shall certify to the Secretary in writing that he or she has been appointed to be a Board Member by the appointing Party. The Governing Body of each Party shall appoint one Alternate Board Member per Governing Board seat. Alternate Board Members have no vote at Governing Board meetings if the Board Member is present. If the Board Member is not present, the Alternate Board Member shall be entitled to participate in all respects as a regular Board Member. Agency meetings shall comply with the Ralph M. Brown Act required for meetings of the Governing Board.

3.2 Removal of Board Members. Board Members and Alternate Board Members shall serve at the pleasure of their appointing Party's Governing Body and may be removed or replaced at any time. Upon removal of a Board Member, the Alternate Board Member shall serve as a Board Member until a new Board Member is appointed by the Party's Governing Body. Parties must submit any changes in Board Member or Alternate Board Member appointments to the Secretary in writing and signed by the Member.

3.3 Quorum. Attendance of four Board Members, with at least one Member representing each Party, shall constitute a quorum for the transaction of business. In the absence of a quorum, any meeting of the Governing Board may be adjourned from time to time by a majority present, but no other business may be transacted.

3.4 Approval. Action of the Governing Board shall require the affirmative vote of a majority of Board Members voting, except for approvals of the annual budget and cost sharing agreement in Section 4, and any amendments to them, and the addition of additional parties to this MOU in accordance with Section 8.3, which must be approved unanimously by all Board Members. Affirmative action by the Governing Board is binding on each Party.

3.5 Officers. The Governing Board shall select a Chair, Vice Chair, Secretary, and any other officers as determined necessary by the Governing Board. The Secretary of the Board is not required to be a member of the Governing Board, but instead, can be a member of the staff of one of the Parties.

3.5.1. The Chair shall preside at all Governing Board Meetings.

3.5.2. The Vice Chair shall act in place of the Chair at meetings should the Chair be absent.

3.5.3. The Secretary shall prepare agendas for meetings in accordance with the Brown Act, 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 Board Member and Alternate Member of the Governing Board. The Secretary shall provide the agendas to each Party for posting in accordance with the Brown Act.

3.5.4. All Officers shall be chosen at the first Governing Board meeting and serve a term of two (2) years. An Officer may serve for multiple consecutive terms. Any Officer may resign at any time upon written notice to the Governing Board.

SECTION 4: FUNDING

Each Party's participation in this MOA is at that Party's sole cost and expense. The Parties shall mutually develop an annual budget and cost sharing agreement for the work to be undertaken by this MOA. Both the budget and cost sharing agreement shall be approved by the Governing Board by unanimous vote, pursuant to Section 3.4 of this Agreement, before any financial expenditures or financial obligations or liabilities may be incurred by the GSA. Expenditures, as well as any income received by the GSA, must be included within the annual budget.

SECTION 5: TECHNICAL COMMITTEE

5.1 Responsibilities of the Technical Committee.

5.1.1 The Governing Board shall establish a Technical Committee made up of GSA Staff. At least one staff member from each Party may serve on the Technical Committee. The Technical Committee shall develop a process to direct and coordinate GSA activities, including the development, planning, financing, environmental review, permitting, implementation, and long-term monitoring of the GSP for the Managed Area, and/or for the portion of a GSP developed and implemented Basin-wide that is applicable to the Managed Area. The Technical Committee may delegate tasks and responsibilities to GSA Staff. The Technical Committee shall keep the Governing Board apprised of its activities, and may from time to time be asked by the Governing Board to attend Governing Board meetings for the purpose of answering questions and providing information. In addition to being responsible for development and implementation of the GSP or portion of a Basin-wide GSP for the Managed Area, the Technical Committee shall have responsibility for the following:

5.1.1.1 Develop and implement a stakeholder participation plan, pursuant to the requirements of the Act and the GSP Regulations, that involves the public and area stakeholders in developing and implementing the GSP.

5.1.1.2 Schedule meetings of the Governing Board through the Secretary as necessary to coordinate development and implementation of the GSP. Attendance at these meetings may be augmented to include staff or consultants of all Parties to ensure that the appropriate expertise is available.

5.1.1.3 Coordinate with other entities within the Basin regarding GSP formation as required by the Act and the GSP Regulations. GSA Staff shall work cooperatively with the Parties to develop agreement on specific positions before communicating the GSA's positions on specific issues with other entities within the Basin, whenever feasible. GSA Staff shall only take positions on issues which may affect the other Parties to this MOA after majority approval of the MOA Parties and ratification by the Governing Board.

5.1.1.4 Establish financial management and review functions, and report regularly to the Governing Board. The purpose of this reporting is to assist the Parties in monitoring and managing invoicing, payments, cash flow, and other financial matters.

SECTION 6: GROUNDWATER SUSTAINABILITY PLAN

6.1 It is the intent of the Parties to develop a GSP that meets the requirements of the Act and the GSP Regulations and can be successfully implemented to achieve groundwater sustainability in the Basin. Notwithstanding the foregoing, and to the maximum extent permitted by law, each Party agrees to implement the GSP in its own service area or cause the implementation of the GSP in its own service area through written agreement, delegation or other means. Further, the Parties shall endeavor to develop a GSP that shall not prohibit or impose conditions upon the drilling or construction of any new groundwater well or operation of the water system within the sphere of influence of any Party. Nothing in this MOA or a future GSP shall be interpreted as superseding the land use authority, police power, or any other authorities of a Party.

6.2 The Parties understand that each of the Parties' respective Governing Bodies will be required to adopt the GSP.

6.3 Each Party to this MOA shall be individually responsible to implement measures to comply with the GSP as necessary in each Party's service area.

SECTION 7: COMMUNICATION

7.1 Interagency Communication: To provide for consistent and effective communication between Parties, each Party agrees to designate one staff representative as its central point of contact on matters relating to this MOA. Additional representatives may be appointed to serve as points of contact on specific actions or issues.

7.2 Providing Proper Notice: All notices, statements, or payments related to implementing the objectives of this MOA shall be deemed to have been duly given if given in writing and either delivered personally or mailed by first-class, registered, or certified mail as follows to the following individuals or their successors:

South San Joaquin Irrigation District
Peter Rietkerk, General Manager
11011 E. Highway 120
Manteca, California 95366

City of Ripon
Kevin Werner, City Administrator
259 North Wilma Avenue
Ripon, CA 95366

City of Escalon
Tammy Alcantor, City Manager
2060 McHenry Avenue
Escalon, CA 95320

SECTION 8: TERMINATION, WITHDRAWAL AND NEW PARTIES

8.1 Terminating the Agreement. This MOA may be terminated upon unanimous written consent of all the Parties.

8.2 Withdrawal. A Party may unilaterally withdraw from this MOA without causing or requiring termination of the MOA, effective upon thirty (30) days written notice to the remaining Parties' designated addresses as listed in "Providing Proper Notice" section above. A Party that has withdrawn from this MOA shall remain obligated to pay its share of expenses and obligations as outlined in the budget and cost share agreement incurred or accrued up to the date the Party provided notice of withdrawal. A Party withdrawing from this MOA shall expressly retain the right and responsibility to serve as the GSA for the groundwater basin underlying its boundary or join with other GSA entities in the basin to comply with the groundwater management activities required under the Act.

8.3 New Parties. Additional agencies may join this Agreement and become a Party to the Agreement provided that the prospective new Party, (a) is eligible to join a groundwater sustainability agency as provided by the Act, (b) negotiates necessary changes to the structure of the Governing Board with all other Parties, (c) pays all previously incurred costs that the Governing Board determines to have benefited the new Party, (d) agrees in writing to the terms and conditions of this Agreement and (e) is approved by the Parties.

SECTION 9: AMENDMENT; INSURANCE AND INDEMNIFICATION

9.1 Amendment. This MOA may be amended only by a subsequent writing, approved and signed by all Parties. Approval from a Party is valid only after that Party's Governing Body approves the amendment at a public meeting. GSA Staff, and individual Governing Board members do not have the authority, express or implied, to amend, modify, waive or in any way alter this MOA of the terms and conditions hereof.

9.2 Indemnification. No Party, nor any officer or employee of a Party, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by another Party under or in connection with this MOA. The Parties further agree, pursuant to California Government Code section 895.4, that each Party shall fully indemnify and hold harmless the other Parties and their respective agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses, and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by the indemnifying Party under this MOA. Each Party shall additionally include within any third party contract entered into in

furtherance of this MOA, provisions requiring the contractor, consultant or vendor to indemnify, defend and hold harmless the other Parties to the same extent as the contracting Party is indemnified.

9.3 Insurance. Each Party shall include within any third party contract entered into in furtherance of this MOA, provisions requiring the contractor, consultant or vendor to provide insurance coverage to the other Parties equivalent to the coverage provided to the contracting Party. Without limiting the foregoing and to extent the following policies are required by the contract, the non-contracting Parties shall: (1) be named as additional insured and provided coverage on a primary and non-contributory basis on the contractor, consultant or vendor's policies of commercial general liability and business automobile liability insurance and (2) be included in any waiver of subrogation endorsements issued on the commercial general liability, business automobile liability and workers' compensation/employer's liability policies.

SECTION 10: MISCELLANEOUS

10.1 Execution in Counterparts. The Parties intend to execute this MOA in counterparts. It is the intent of the Parties to hold one (1) counterpart with single original signatures to evidence the MOA and to thereafter forward (# of Parties to MOA) other original counterparts on a rotating basis for all signatures. Thereafter, each Party shall be delivered an originally executed counterpart with all Party signatures.

10.2 Term of MOA. This MOA shall become operative upon its execution by each of the named Parties. The term of this MOA is indefinite and will cease existence only upon termination by the Parties pursuant to Section 8 of this MOA.

10.3 Choice of Law. This MOA is made in the State of California, under the Constitution and laws of such State and is to be so construed.

10.4 Severability. If any provision of this MOA is determined to be invalid or unenforceable, the remaining provisions will remain in force and unaffected to the fullest extent permitted by law and regulation.

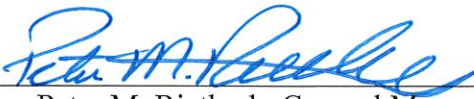
10.5 Entire Agreement. This MOA constitutes the sole, entire, integrated and exclusive agreement between the Parties regarding the contents herein. Any other contracts, agreements, terms, understandings, promises or representations not expressly set forth or referenced in this writing are null and void and of no force and effect.

10.6 Construction and Interpretation. The Parties agree and acknowledge that this MOA has been developed through negotiation, and that each party has had a full and fair opportunity to revise the terms of this MOA. Consequently, the normal rule of construction that any ambiguities are to be resolved against the drafting party shall not apply in construing or interpreting this MOA.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the dates set forth below.

SOUTH SAN JOAQUIN IRRIGATION DISTRICT

Dated: 3/23/2017

By: 
Peter M. Rietkerk, General Manager

CITY OF RIPON

Dated: 3/27/17

By: 
Kevin Werner, City Administrator

CITY OF ESCALON

Dated: 4-5-17

By: 
Tammy Alcantor, City Manager