

**MEMORANDUM OF AGREEMENT
ESTABLISHING THE WEST PLACER GROUNDWATER SUSTAINABILITY AGENCY**

THIS AGREEMENT is entered into and effective the 30th day of June, 2017 (Effective Date) by and among the City of Lincoln, a municipal corporation, City of Roseville, a municipal corporation, the Nevada Irrigation District, a California irrigation district (NID), the Placer County Water Agency, a county water agency (PCWA), and the County of Placer, a political subdivision of the state of California (all hereafter known individually as a "Member" and collectively as "Members").

RECITALS

A. Whereas, on August 29, 2014, the California Legislature passed comprehensive groundwater legislation contained in SB 1168, SB 1319 and AB 1739. Collectively, those bills, as subsequently amended, enacted the Sustainable Groundwater Management Act (SGMA). Governor Brown signed the legislation on September 16, 2014 and it became effective on January 1, 2015; and

B. Whereas, SGMA requires "sustainable groundwater management" for all groundwater basins or subbasins that are designated as high-priority or medium-priority basins by the Department of Water Resources' report entitled "California's Groundwater: Bulletin 118" ("Bulletin 118"); and

C. Whereas, the North American Subbasin of the Sacramento Valley Groundwater Basin, California Department of Water Resources Basin No. 5-21.64, has been designated as a high-priority subbasin in Bulletin 118; and

D. Whereas, SGMA provides that a combination of local agencies overlying a groundwater basin or subbasin may elect to become a Groundwater Sustainability Agency (GSA) for that basin, subbasin or portion of said basin or subbasin; and

E. Whereas, each of the Members overlies a portion of the North American Subbasin of the Sacramento Valley Groundwater Basin; and

F. Whereas, each of the Members is a local agency authorized to become, or participate in, a Groundwater Sustainability Agency (GSA) under SGMA; and

G. Whereas, the Members desire, through this Agreement, to form the West Placer Groundwater Sustainability Agency (Agency) for the purpose of acting as the Groundwater Sustainability Agency for a portion of the North American Subbasin. The boundaries of the Agency are depicted on the map attached hereto as Exhibit A and incorporated herein; and

H. Whereas, the Members intend on entering into an agreement, pursuant to Water Code section 10723.6, subdivision (b), with California-American Water Company (California American Water or CAWC), a water corporation regulated by the California Public Utilities Commission, to provide for California American Water's participation in the West Placer Groundwater Sustainability Agency; and

I. Whereas, the mission of the Agency is to provide a dynamic, cost-effective, flexible and collegial organization to ensure compliance with SGMA within the North American Subbasin.

THEREFORE, in consideration of the mutual promises, covenants and conditions herein set forth, the Members agree as follows:

I. DEFINITIONS. As used in this Agreement, unless the context requires otherwise, the meaning of the terms hereinafter set forth shall be as follows:

- A. **"Administrator"** means a Member appointed by the other Members from time to time by agreement of a majority of the Member Representatives and CAWC Representative, and in the manner set forth in this Agreement that is authorized to administer the activities contemplated by this Agreement.
- B. **"Agreement"** shall mean this Memorandum of Agreement Establishing the West Placer Groundwater Sustainability Agency.
- C. **"Agency"** shall mean the West Placer Groundwater Sustainability Agency (WPGSA) established by this Agreement.
- D. **"CAWC Representative"** shall mean the California American Water staff member (and/or alternates), designated from time to time by California American Water, who is authorized to take actions related to California American Water's participation in the activities of the Agency.
- E. **"Budget"** means the budget provided for in this Agreement.
- F. **"DWR"** shall mean the California Department of Water Resources.
- G. **"Effective Date"** shall be as set forth in the Preamble of this Agreement.
- H. **"Funds"** means funds received by the Administrator from the Members and/or CAWC, or another source for use in carrying out the purposes of this Agreement.
- I. **"Groundwater Sustainability Agency" or "GSA"** shall mean a combination of local agencies authorized by SGMA to regulate a portion of the Subbasin cooperatively with

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all other Groundwater Sustainability Agencies formed in the Subbasin, in compliance with SGMA.

- J. **"Groundwater Sustainability Plan" or "GSP"** shall have the definition set forth in SGMA.
- K. **"GSA Boundary"** shall mean those lands located within the Member's boundaries, all within the western portion of Placer County, that overlie the Subbasin, excluding lands within the GSA being formed by the South Sutter Water District. The GSA Boundary is depicted in Exhibit A.
- L. **"Member"** shall mean the legislative bodies of those agencies listed in the Preamble to this Agreement.
- M. **"Member Representative"** means the staff member (and/or alternates), designated from time to time by each Member, who is authorized to take actions under this Agreement to the extent permitted, until such time as the Member notifies the Administrator and the other Members of a change in its Member Representative.
- N. **"SGMA"** shall mean the Sustainable Groundwater Management Act and all regulations adopted under the legislation (SB 1168, SB 1319 and AB 1739) that collectively comprise the Act, as that legislation and those regulations may be amended from time to time.
- O. **"Subbasin"** as used in this Agreement shall mean the North American Subbasin of the Sacramento Valley Groundwater Basin, California Department of Water Resources Basin No. 5-21.64 as its boundaries may be modified from time to time in accordance with Cal. Water Code Section 10722.2.

II. ORGANIZING PRINCIPLES

- A. The Members intend to work together in mutual cooperation to develop and implement a GSP for a portion of the North American Subbasin in compliance with SGMA or to work with other GSAs formed over other portions of the North American Subbasin to develop and implement a GSP for the entire Subbasin.
- B. The Members shall strive to provide for the consideration of all interests of all beneficial uses within the Subbasin. To that end the Members intend to seek out input from all interested stakeholders during the GSP development and implementation.
- C. The Members may, in the future, desire to enter into a joint powers agreement and may elect to create a new, separate, Joint Powers Authority to implement SGMA. Should the Members elect to do so; the Members agree to work cooperatively to ensure any such joint powers agreement reflects the principles contained in this Agreement. Any

election to create a new, separate Joint Power Authority will be subject to the approval of the governing bodies of the individual members.

- D. The Members intend through this Agreement to obtain cost-effective consulting services for the development and implementation of a GSP.

III. FORMATION, PURPOSE AND POWERS

- A. **Certification.** Each Member certifies and declares that it is a public agency authorized to contract with each other for the purpose of implementing SGMA.

- B. **Creation of the Agency.** Pursuant to Water Code section 10723.6, the Members hereby form and establish the "West Placer Groundwater Sustainability Agency." The Agency is not a separate legal entity; instead, the West Placer Groundwater Sustainability Agency is the name for the joint effort being pursued by the Members under this Agreement.

- C. **Purposes of the Agency.** The purposes of the Agency are to:

1. cooperatively carry out the purposes of SGMA;
2. be recognized as a GSA by the State of California for purposes of management of a portion of the Subbasin within the GSA Boundary in accordance with SGMA; and
3. cooperatively develop, adopt and implement a legally sufficient GSP for all or a portion of the Subbasin, subject to the limitations set forth in this Agreement.

- D. **Duties of the Agency.** To the extent authorized by the Members through their Member Representatives, and subject to the limitations set forth in this Agreement, the Agency shall carry out SGMA.

- E. **Appointment and Actions of the Administrator.** The Members hereby initially appoint Placer County to be the Administrator of this Agreement. The Members and CAWC may change the Administrator from time to time by majority vote of the Members and CAWC. The Administrator will be responsible for confirming and communicating to all other Members and CAWC, in writing, the actions approved by the Members and CAWC from time to time. In carrying out its duties under this Agreement, the Administrator shall comply with the legal and regulatory requirements applicable to the Administrator (e.g., procurement procedures). The Administrator shall have the authority to take the following actions to the extent they are consistent with the approved Budget, the terms of this Agreement and the agreed upon scope of activities developed by the Member and CAWC Representatives:

1. To undertake or arrange for approved activities in accordance with the provisions of this Agreement;
2. To apply for, receive and disburse Funds for use in carrying out the purposes of this Agreement;
3. To accumulate Funds for the purposes herein mentioned, and to invest Funds subject to applicable law, provided such Funds are not presently needed to pay costs related to the authorized uses of such Funds under this Agreement;
4. To make and enter into contracts reasonably necessary to carry out the purpose of this Agreement, consistent with the approved Budget and agreed upon scope of activities.

F. **Duties of Individual Members.** Each Member agrees to undertake activities and actions to carry out the purposes of SGMA within the GSA portion of the Subbasin.

1. The City of Roseville will be the Member implementing SGMA and the GSP within the limits of the City of Roseville.
2. The City of Lincoln will be the Member implementing SGMA and the GSP within the limits of the City of Lincoln.
3. The Nevada Irrigation District and the County of Placer will be the Members, implementing SGMA and the GSP within that portion of the Nevada Irrigation District within Placer County, excluding the limits of the City of Lincoln.
4. The Placer County Water Agency and the County of Placer will be the Members implementing SGMA and the GSP within the limits of the GSA Boundary, excluding the limits of the Cities of Lincoln and Roseville and the boundary of the Nevada Irrigation District.
5. Each Member agrees to undertake such additional proceedings or actions within each Member's jurisdictional limits as may be necessary in order to carry out the terms and intent of this Agreement and SGMA. The support of each Member is required for the success of the Agency. This support will involve the following types of actions:
 - i. Each Member will provide support to its fellow Member Representative and any third party facilitating the development of the GSP by making available staff time, information and facilities within available resources.

- ii. Policy support shall be provided by the Members to either approve, or respond quickly to, any recommendations made as to funding shares, operational decisions, and other policy areas.
 - iii. Each Member shall contribute its share of operational fund allocations, as established by the Member Representatives in the annual Budget, subject to the approval of the individual Members.
- 6. Contributions of public funds and of personnel, services, equipment or property may be made to the Agency by any Member for any of the purposes of this Agreement provided that no repayment will be made for such contributions unless otherwise agreed by the Members.
- G. Amendments. This Agreement may be amended from time to time by a unanimous vote of the Members. Any amendment shall be approved by each governing body.
- H. Duties of California American Water. Through a separate Participation Agreement, the Members expect that California American Water will agree to undertake activities and actions to carry out the purposes of SGMA within the GSA portion of the Subbasin, including actions similar to those of Members as set forth in Section F.4., above.
- I. **Term.** This Agreement shall be effective as of the Effective Date and shall remain in effect until terminated in accordance with Article VI of this Agreement.
- J. **Boundaries of the Agency.** The geographic boundaries of the Agency and that portion of the North American Subbasin that will be managed by the Agency pursuant to SGMA are depicted in Exhibit A.

IV. GOVERNANCE

- A. **Member and CAWC Representatives.** Agency activities shall be carried out by the Member and CAWC Representatives, subject to the terms of the Participation Agreement with CAWC.
 - 1. Actions of the Member Representatives. Upon approval of this Agreement by the governing body of each Member, each Member shall appoint a staff member and an alternate to act as its Member Representative. A Member Representative shall have authority to take action under this Agreement on behalf of the Member that he or she represents, in accordance with that Member's permissions afforded by action of the governing body, existing policy, or municipal code, consistent with agreed upon scope of activities and the Budget.

2. CAWC Representative. Subject to the terms of a separate Participation Agreement, CAWC shall appoint a staff member and an alternate to act as its CAWC Representative. The CAWC Representative shall have authority to take action under this Agreement on behalf of CAWC, consistent with agreed upon scope of activities and the Budget.
3. Member and CAWC Representatives may take action contemplated by this Agreement at a regular monthly meeting or other means unanimously approved by the Member and CAWC Representatives from time to time, in writing.
4. All activities undertaken pursuant to this Agreement as part of the Joint Effort shall be agreed upon as provided in Section IV.C.
5. Within 30 days of the effective date of this Agreement, the Member and CAWC Representatives will develop a scope of proposed activities consistent with the Budget.

- B. **Quorum.** A majority of the total membership of the Members and CAWC Representatives will constitute a quorum of the Agency.
- C. **Voting.** Except as to actions identified in Sections D, E, and F, below, as applicable, the Members and CAWC, through their Member and CAWC Representatives, will conduct all business by majority vote of the total membership. Prior to voting, the Member and CAWC Representatives shall endeavor in good faith to reach consensus on the matters to be determined such that any subsequent vote shall be to confirm the consensus of the Member and CAWC Representatives. If any Member or CAWC Representative strongly objects to a consensus-based decision prior to a vote being cast, the Representative shall work in good faith to reasonably resolve such strong objection, and, if the same is not resolved collaboratively, then the matter will proceed to a vote for final resolution.
- D. **Unanimous Vote Requirement for Certain Actions.** The following actions will require a unanimous vote by the Member and CAWC Representatives:
1. Approval of the Agency's annual budget.
 2. Decisions related to any recommendation to the individual Members with respect to levying assessments or imposing property-related fees and charges for the purposes set forth in this Agreement.
- E. **Vote and Approval Reserved to Members.** The following actions will require the approval of the governing body of individual Members:

1. Decisions to provide the funds developed in the Agency's annual budget, as approved by the Member and CAWC Representatives.
2. Decisions related to the expenditure of funds by the Agency beyond expenditures approved in the Agency's annual budget.
3. Decisions related to the establishment of the Members' percentage obligations for payment of the Agency's operating and administrative costs.
4. Approval of a GSP.
5. Decisions related to levying assessments or imposing property-related fees and charges.
6. Decisions related to regulatory matters provided for in the GSP.
7. Any other actions as may be determined appropriate by the Member and CAWC Representatives.

F. **Vote and Approval Reserved to California American Water.** Subject to a separate Participation Agreement with California American Water, the following actions will require the approval of California American Water:

1. Decisions to provide the funds developed in the Agency's annual budget, as approved by the Member and CAWC Representatives.
2. Decisions related to the expenditure of funds by the Agency beyond expenditures approved in the Agency's annual budget.
3. Decisions related to the establishment of the California American Water's percentage obligation for payment of the Agency's operating and administrative costs.
4. Any other actions as may be determined appropriate by the Member and CAWC Representatives.

V. FINANCIAL PROVISIONS

- A. **Contributions and Expenses:** Members and, subject to a separate Participation Agreement, California American Water, shall share in the general operating and administrative costs of operating the Agency in accordance with the percentages set forth in Exhibit B attached hereto and incorporated herein.

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- B. **Initial Contributions.** Upon execution of this Agreement, each of the Members, and, subject to a separate Participation Agreement, California American Water shall each contribute the amounts specified in Exhibit B to the Agency for initial costs. Such funds may be used in the discretion of the Member and CAWC Representatives to fund the activities of the Agency including, without limitation, engineering services.
- C. **Budget.** The Agency's fiscal year shall run from July 1 through June 30. Each fiscal year, the Member and CAWC Representatives shall prepare and agree upon a Budget for the Agency for the ensuing fiscal year. Within ninety (90) days of the effective date of this Agreement, the Member and CAWC Representatives shall prepare and agree upon a Budget. Thereafter, a Budget shall be agreed upon no later than February 1 of the preceding fiscal year. The Budget must be agreed upon by unanimous vote of the Member and CAWC Representatives and approved by the governing body of the individual Members and by California American Water.
- D. **Alternate Funding Sources.** The Agency may obtain State of California, federal, local, or private company grants but shall not create any indebtedness without approval of all of the individual Members and California American Water.
- E. **Accounting of Funds.** At the request of any Member or CAWC, the Administrator shall provide for an accounting of funds collected and disbursed for the current or prior fiscal year.

VI. CHANGES TO MEMBERSHIP, WITHDRAWAL AND TERMINATION

- A. **Termination.** The Members may agree in writing to terminate this Agreement prior to the expiration date. Prior to termination of this Agreement, the Members and CAWC will work in good faith to ensure that a GSA will continue to implement SGMA and the GSP within the GSA Boundary. The Members recognize and acknowledge that the failure to ensure a GSA will continue to implement SGMA and the GSP may result in regulation of the Subbasin by the California State Water Resources Control Board.
- B. **Disposition of Property Upon Expiration or Termination.** Upon expiration or termination of this Agreement, any surplus Funds will be returned to the Members and/or California American Water in proportion to the contributions made by them except for any Funds obligated to pay for expenses incurred prior to the date of termination.
- C. **Withdrawal of a Member.** Any Member may withdraw from this Agreement effective upon one hundred eighty (180) day's written notice to all other

Members and California American Water. The withdrawing Member and the Administrator, on behalf of the remaining Members, shall execute an amendment to this Agreement memorializing the withdrawal. A withdrawing Member shall be responsible for its share of financial obligations incurred under this Agreement prior to the effective date of the withdrawal. Upon notice of the withdrawal of a Member, the withdrawing Member and the remaining Members will negotiate in good faith to ensure a GSA retains regulatory authority over the GSA Boundary.

- D. **Use of Data.** Upon withdrawal, any Member shall be entitled to use any data or other information developed by the Agency during its time as a Member. Further, should a Member withdraw from the Agency after completion of the GSP, and in the event that Member becomes the GSA for that area of the Subbasin within its legal boundary, it shall be entitled to utilize the GSP for future implementation of SGMA within its legal boundary.

VII. MISCELLANEOUS PROVISIONS

- A. **Notice.** Any notice or instrument required to be given or delivered under this Agreement may be made by: (a) depositing the same in any United States Post Office, postage prepaid, and shall be deemed to have been received at the expiration of 72 hours after its deposit in the United States Post Office; (b) transmission by electronic mail; or (c) personal delivery, as follows:
- a. City of Roseville, Attn: City Clerk, 311 Vernon St., Roseville, CA 95678
 - b. City of Lincoln Attn: City Clerk, 600 Sixth St., Lincoln, CA 95648
 - c. Placer County Attn: Clerk of the Board, 175 Fulweiler Avenue, Auburn, CA, 95603
 - d. Placer County Water Agency Attn: Clerk to the Board, 144 Ferguson Rd. P.O. Box 6570, Auburn, CA, 95604
 - e. Nevada Irrigation District Attn: Clerk to the Board, 1036 West Main Street, Grass Valley, CA 95945
 - f. Cal American Water Company Attn: General Manager, 4701 Beloit Dr., Sacramento, CA 95838
- B. **Counterparts.** This Agreement may be executed by the Members in separate counterparts, each of which when so executed and delivered shall be an original. All such counterparts shall together constitute but one and the same instrument.
- C. **Choice of Law.** This Agreement shall be governed by the laws of the State of California. Venue shall be in Placer County, California. The parties each waive any federal court removal and/or jurisdictional rights they may have.

- D. **Severability.** If one or more clauses, sentences, paragraphs or provisions of this Agreement is held to be unlawful, invalid or unenforceable, it is hereby agreed by the Members that the remainder of the Agreement shall not be affected thereby. Such clauses, sentences, paragraphs or provisions shall be deemed reformed so as to be lawful, valid and enforced to the maximum extent possible.
- E. **Headings.** The paragraph headings used in this Agreement are intended for convenience only and shall not be used in interpreting this Agreement or in determining any of the rights or obligations of the Members to this Agreement.
- F. **Construction and Interpretation.** This Agreement has been arrived at through negotiation and each Member has had a full and fair opportunity to revise the terms of this Agreement. As a result, the normal rule of construction that any ambiguities are to be resolved against the drafting Member shall not apply in the construction or interpretation of this Agreement.
- G. **Entire Agreement.** This Agreement constitutes the entire agreement among the Members and supersedes all prior agreements and understandings, written or oral. This Agreement may only be amended by written instrument executed by all Members.

IN WITNESS WHEREOF, the Members have executed this Agreement on the day and year first above-written.

COUNTY OF PLACER

By:



Printed Name/Title:

David Boesch, County Executive Officer

Date:

5/16/17

Approved As to Form

By:

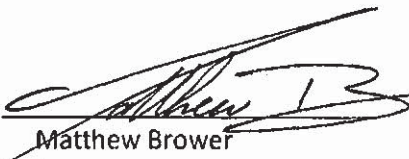


County Counsel

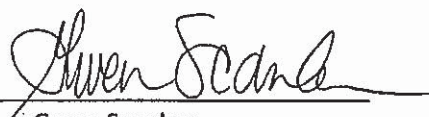
Date:

5/15/17

CITY OF LINCOLN, a municipal corporation

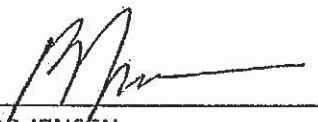
BY: 
Matthew Brower
City Manager

ATTEST:

BY: 
Gwen Scanlon
City Clerk

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CITY OF ROSEVILLE, a municipal corporation

BY: 
ROB JENSEN
City Manager

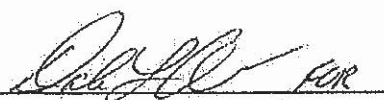
ATTEST:

BY: 
SONIA OROZCO
City Clerk

APPROVED AS TO FORM:

BY: 
ROBERT R. SCHMITT
City Attorney

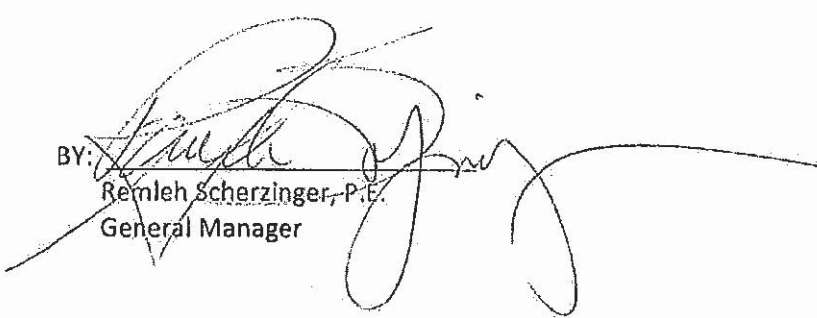
APPROVED AS TO SUBSTANCE:

BY:  FOR
RICHARD D. PLECKER
Environmental Utilities Director

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Nevada Irrigation District

BY:


Remleh Scherzinger, P.E.
General Manager

ATTEST:

BY:

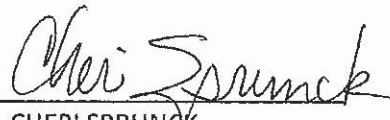

Kris Stepanian
Board Secretary

MEMORANDUM OF AGREEMENT – ESTABLISHING THE WEST PLACER GROUNDWATER SUSTAINABILITY
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PLACER COUNTY WATER AGENCY

BY: 
EINAR MAISCH
General Manager

ATTEST:

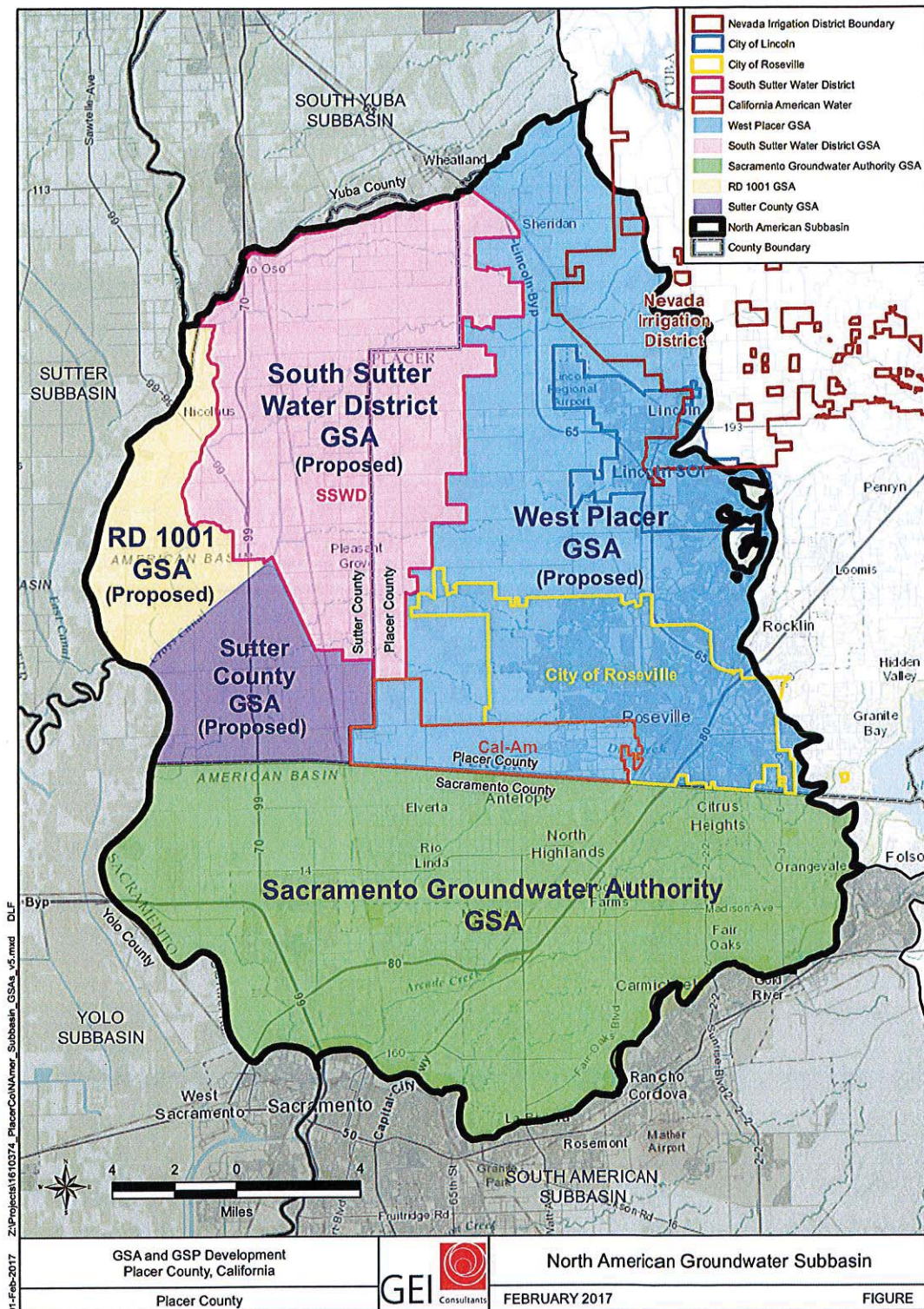
BY: 
CHERI SPRUNCK
Clerk to the Board

APPROVED AS TO FORM:

BY: 
DAN KELLY
Staff Counsel

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EXHIBIT A



MEMORANDUM OF AGREEMENT – ESTABLISHING THE WEST PLACER GROUNDWATER SUSTAINABILITY AGENCY

EXHIBIT B

**WEST PLACER GROUNDWATER SUSTAINABILITY YEAR ONE MEMBER COSTS
(FY 2017/2018)**

Agency	Annual Contribution*	Percentage
Cal-Am	\$25,000	9.1%
City of Lincoln	\$50,000	18.2%
City of Roseville	\$50,000	18.2%
Nevada Irrigation District	\$50,000	18.2%
Placer County	\$50,000	18.2%
Placer County Water Agency	\$50,000	18.2%
Total	\$275,000	100%