

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY**

DEPT: Environmental Resources

BOARD AGENDA: 5.B.1
AGENDA DATE: August 21, 2018

SUBJECT:

Approval of a Cost Sharing Agreement with the Member Agencies of the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Agency for the Development of a Groundwater Sustainability Plan for the Modesto Subbasin

BOARD ACTION AS FOLLOWS:

RESOLUTION NO. 2018-0410

On motion of Supervisor Olsen, Seconded by Supervisor Withrow
and approved by the following vote,

Ayes: Supervisors: Olsen, Chiesa, Withrow, Monteith, and Chairman DeMartini

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

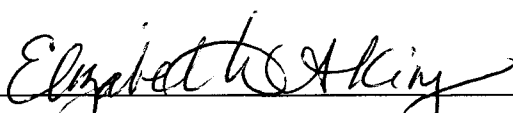
1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:



ATTEST: ELIZABETH A. KING, Clerk of the Board of Supervisors

File No. GSA-1-2

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Environmental Resources

BOARD AGENDA:5.B.1
AGENDA DATE: August 21, 2018

CONSENT:

CEO CONCURRENCE: YES

4/5 Vote Required: No

SUBJECT:

Approval of a Cost Sharing Agreement with the Member Agencies of the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Agency for the Development of a Groundwater Sustainability Plan for the Modesto Subbasin

STAFF RECOMMENDATION:

1. Approve the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Agency Cost Sharing Agreement for the development of a Groundwater Sustainability Plan.
2. Authorize the Chairman of the Board to execute the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Agency Cost Sharing Agreement.
3. Authorize the Director of Environmental Resources, or designee, to make invoice payments to the City of Modesto pursuant to the Cost Sharing Agreement, including contingency funds, if needed.
4. Authorize the Director of Environmental Resources, or designee, to collect reimbursement funds from Tuolumne County for this purpose pursuant to Section 1.6 of the Cooperation Agreement entered into between the Stanislaus and Tuolumne Counties which became effective on May 8, 2018.

DISCUSSION:

In September 2014, Governor Jerry Brown signed into law the Sustainable Groundwater Management Act of 2014 (SGMA) which requires, among other items, the formation of Groundwater Sustainability Agencies (GSA) and the preparation of Groundwater Sustainability Plans (GSP) with a focus on long-term sustainability. Development and adoption of a GSP must occur no later than January 31, 2022, for groundwater basins not designated as being in a condition of critical overdraft, such as the Modesto Subbasin.

In early 2017, the member agencies of the Stanislaus and Tuolumne Rivers Groundwater Basin Association that was established in 1994, elected to enter into a Memorandum of Understanding (MOU) to form the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Agency (STRGBA GSA) in advance of the legislatively mandated deadline of June 30, 2017. The Board of Supervisors approved the MOU on January 31, 2017. The STRGBA member agencies are all public agencies, pursuant to SGMA definition, and include the cities of Oakdale, Riverbank, Modesto, and Waterford; Stanislaus County; the Oakdale Irrigation District;

and the Modesto Irrigation District. Since its inception, the STRGBA has provided a forum for local agencies to work cooperatively to provide for coordinated planning in the pursuit of effective and sustainable management of the Modesto Subbasin.

In August 2017 after undergoing a competitive consultant selection process, the STRGBA GSA authorized Todd Groundwater (Todd) to develop and submit a grant application package to the State Department of Water Resources (DWR) Sustainable Groundwater Planning Grant Program to help secure grant funds for the preparation of a single, basin-wide GSP for the Modesto Subbasin. At the same time, the STRGBA GSA also authorized City of Modesto to be the grant applicant on behalf of STRGBA GSA member agencies and to act as contracting agency with both Todd Groundwater and the DWR. Todd's full estimated cost for preparation of the GSP was approximately \$1.67 million dollars.

In March 2018, DWR notified the City of Modesto that the STRGBA GSA was successful in obtaining a \$1 million State grant to help cover the costs of the GSP preparation. The STRGBA GSA members have agreed to enter into a Cost Sharing Agreement to provide funding for the balance of the costs in excess of the State grant amount. The respective governing bodies for each of the STRGBA GSA members are being asked to approve and authorize the execution of the Cost Sharing Agreement. Once these actions have taken place, the City of Modesto will enter into a contractual agreement with DWR on behalf of the STRGBA GSA to initiate the preparation of the required.

POLICY ISSUE:

Approval of the Board of Supervisors is required to execute the Cost Sharing Agreement pursuant to the terms and conditions of the Memorandum of Understanding regarding forming the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Agency (STRGBA GSA).

FISCAL IMPACT:

The total estimated cost to develop the GSP as provided by Todd is \$1,668,090. When taking into account the \$1,000,000 State grant funds, this leaves a balance of \$668,090 to be provided by the STRGBA GSA member agencies as their local cost share contribution. However, GSP preparation costs incurred by the STRGBA GSA prior to the award of the grant may be used to offset the local cost share requirement. These encumbered costs are \$198,794, which results in an adjusted local cost-share amount of \$469,296. This adjusted amount will be divided equally among the agencies that make up the STRGBA GSA, including an equal funding share provided by Tuolumne County. In addition, the STRGBA GSA member agencies are seeking approval of contingency funds equal to 10% of the adjusted project cost of \$1,469,296 or \$146,929.60. These funds would only be called upon if there were unforeseen circumstances that arose during the development of the GSP for which the additional funding was needed to address.

The remaining non-grant funded amount of \$469,296, plus the additional \$146,930 in contingency funds or a total of \$616,226, will be shared as follows:

Agency	Percent Share	Dollar Amount	10% Contingency	Totals
Oakdale	12.5	\$58,662.00	\$18,366.20	\$77,028.20
Riverbank	12.5	\$58,662.00	\$18,366.20	\$77,028.20
Modesto	12.5	\$58,662.00	\$18,366.20	\$77,028.20
Waterford	12.5	\$58,662.00	\$18,366.20	\$77,028.20
Modesto ID	12.5	\$58,662.00	\$18,366.20	\$77,028.20
Oakdale ID	12.5	\$58,662.00	\$18,366.20	\$77,028.20
Stanislaus County	12.5	\$58,662.00	\$18,366.20	\$77,028.20
Tuolumne County*	12.5	\$58,662.00	\$18,366.20	\$77,028.20
Totals	100	\$469,296.00	\$146,929.60	\$616,225.60

*Tuolumne County: To be paid up front by Stanislaus County pursuant to Section 1.6 of the SGMA “Cooperation Agreement” entered into between the counties effective May 8, 2018. [Note: The contingency funds will not be collected unless needed.]

The City of Modesto will make payments to Todd pursuant to their negotiated contract terms and will, in turn, invoice each of the STRGBA GSA member agencies to collect their respective share of funds (not including the contingency fund amount). The City of Modesto has agreed to allow collection of these funds to be spread out over a four year period. Therefore, Stanislaus County will be making equal payments in the amount of \$29,331 each year for Fiscal Years 2018-2019 through 2021-2022 for this effort. Exactly one-half of these annual expenditures (\$14,665.50) will be reimbursed to Stanislaus County by Tuolumne County pursuant to the aforementioned agreement between the two counties. The Department of Environmental Resources has included sufficient funds within the Adopted Proposed Budget for Fiscal Year 2018-2019 and Spending Plan for Fiscal Year 2019-2020 for this purpose.

BOARD OF SUPERVISORS’ PRIORITY:

The recommended actions are consistent with the Boards’ priority of *Delivering Efficient Public Services and Community Infrastructure*. Approving the Cost-Sharing Agreement with the other STRGBA GSA member agencies represents their fair share of the local costs of preparing the Groundwater Sustainability Plan for the Modesto Groundwater Subbasin so as to be in full compliance with State of California Sustainable Groundwater Management Act.

STAFFING IMPACT:

The Water Resources Manager will continue to oversee the activities related to this action and the County’s Groundwater Program.

CONTACT PERSON:

Jami Aggers, Director, DER
Walter Ward, Water Resources Manager

Telephone: 209-525-6770
Telephone: 209-525-6710

ATTACHMENT(S):

1. STRGBA GSA Cost Share Agreement

**STRGBA GSA
EQUITABLE PROJECT COST SHARING AND REIMBURSEMENT AGREEMENT
FOR
PREPARATION OF A GROUNDWATER SUSTAINABILITY PLAN**

This Equitable Project Cost Sharing and Reimbursement Agreement (“Agreement”) is entered into by and between the City of Oakdale, a California municipal corporation, the City of Riverbank, a California municipal corporation, the City of Modesto, a California municipal corporation, the City of Waterford, a California municipal corporation, Stanislaus County, a political subdivision of the State of California, the Oakdale Irrigation District, a California special district, and the Modesto Irrigation District, a California special district. Each of the parties to this Agreement shall individually be referred to as the “Party,” or collectively, as the “Parties.” This Agreement is entered into this 21st day of August, 2018.

RECITALS:

WHEREAS, the Parties formed the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Agency (“STRGBA GSA”) in 2017 pursuant to the Memorandum of Understanding Forming the Stanislaus and Tuolumne Rivers Groundwater Basin Association Groundwater Sustainability Agency (“GSA MOU”) entered into and duly adopted by each Party to this Agreement, and

WHEREAS, the recitals to the GSA MOU identify the GSA’s obligations to, inter alia, develop a Groundwater Sustainability Plan, as defined in GSA MOU Section 3.9 (“GSP”), for the Modesto Sub-basin, as defined in GSA MOU Section 3.12 (“Modesto Sub-basin”), and

WHEREAS, the Parties have been notified that the City of Modesto as grantee

acting on behalf of the STRGBA GSA, has been awarded a Sustainable Groundwater Planning Grant ("Grant") from the State of California Department of Water Resources ("DWR") in the amount of ONE MILLION DOLLARS (\$1,000,000.00) for the development of the Modesto Sub-basin GSP ("Grant Proceeds"), and

WHEREAS, the Parties have received a proposal from and intend to engage a consultant, Todd Groundwater ("Consultant"), to develop and complete the Modesto Sub-basin GSP for its adoption by the Parties pursuant to the Sustainable Groundwater Management Act of 2014, and

WHEREAS, the TOTAL Consultant (all Fees and Services) cost per Consultant's proposal is provided at Exhibit 1 in the amount of ONE MILLION SIX HUNDRED SIXTEEN THOUSAND TWO HUNDRED TWENTY-FIVE DOLLARS AND SIXTY CENTS, such TOTAL Consultant cost is composed of Consultant's Base Fee and Contingency Services, as each is defined in Exhibit 1, and

WHEREAS, this Agreement identifies each Party's Funding Percentage, as defined in GSA MOU Section 3.4 and described in GSA MOU Section 7.1, with respect to the TOTAL Consultant cost to complete the GSP for its due adoption by the Parties no later than December 31, 2021.

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

TERMS:

1. The City of Modesto shall enter into an agreement with DWR to receive the Grant Proceeds. The City of Modesto will manage the Grant Proceeds in accordance with the Grant agreement and as directed by the Parties through the

STRGBA GSA.

2. Subject to the direction and prior approval of the Parties through the STRGBA GSA, the City of Modesto shall execute an agreement with the Consultant for the preparation of the Modesto Sub-basin GSP for the amounts stated in Exhibit 1, TOTAL Consultant cost (Base Fee plus Contingency Services).

3. Subject to prior approval by the Parties through the STRGBA GSA, the City of Modesto will use the Grant Proceeds to pay a portion of the Consultant's Base Fee. The City of Modesto will pay the TOTAL Unfunded Balance, as described in Exhibit 1 as SIX HUNDRED SIXTEEN THOUSAND TWO HUNDRED TWENTY-FIVE DOLLARS AND SIXTY CENTS, pursuant to the terms below.

4. The Parties shall each pay a share of the TOTAL Unfunded Balance to the City of Modesto as reimbursement for the City of Modesto's payment of the Balance as more specifically delineated in Exhibit 1 hereto ("Funding Share"). As specified in Exhibit 1, Stanislaus County, agrees and promises that, for all cost-share obligations under this Agreement, including cost-share for Base Fee and Contingency Services, it shall also be responsible for all cost-share amounts allocable to Tuolumne County.

5. In the event that any additional agency becomes a Party to this Agreement, GSA MOU Section 4.5 shall govern the addition and the new party's payment of its proportionate share of the TOTAL Consultant cost and the proportionate decrease and refund of the other Parties' Funding Share.

6. Any Party's payment of its Funding Share under this Agreement is contingent and expressly dependent on the condition precedent that the City of Modesto receives the full amount of the Grant Proceeds. If the City of Modesto does not receive

the full amount of the Grant Proceeds, the Parties may seek a reduction in the scope of work of the Consultant, the Funding Shares may be adjusted accordingly or the obligations under this Agreement may be extinguished.

7. Each Party shall make payment of its Funding Share pursuant to Exhibit 1 by: (1) four equal installment payments totaling the amount of the Funding Share, made consecutively at the end of each calendar year, with the first payment due and payable on December 31, 2018; or, (2) full payment of the Funding Share by December 31, 2018.

8. In the event the Consultant notifies the Parties that payment in excess of the TOTAL Consultant cost is needed, the Parties, through the STRGBA GSA, shall determine whether to approve such additional payment and, if so, direct the City of Modesto to contract with the Consultant accordingly.

9. In the event that the actual costs to complete the Modesto Sub-basin GSP by the Consultant are less than the TOTAL Consultant cost and do not require use of the entirety of the Parties' Funding Shares, the Funding Shares shall be recalculated based upon the new Balance and any funds paid in excess of the new Funding Shares shall be refunded to the respective Parties by the City of Modesto accordingly.

10. The City of Modesto shall direct the Consultant to provide regular updates on its work to the STRGBA GSA and as directed by the Parties. Upon the request of the Parties, the City of Modesto shall direct the Consultant to provide any interim drafts or models completed for the Modesto Sub-basin GSP to the Parties. Each Party that has paid its respective Funding Share in full shall be entitled to copies of all final deliverables created by the Consultant.

11. This Agreement is governed by the GSA MOU and it shall control as to items that are not otherwise specifically addressed herein by this Agreement.

IN WITNESS WHEREOF, the City of Oakdale, a California municipal corporation, the City of Riverbank, a California municipal corporation, the City of Modesto, a California municipal corporation, the City of Waterford, a California municipal corporation, Stanislaus County, a political subdivision of the State of California, the Oakdale Irrigation District, a California special district, and the Modesto Irrigation District, a California special district have authorized the execution of this Cost Sharing Agreement for Preparation of a Groundwater Sustainability Plan.

IN WITNESS WHEREOF, the Parties hereto execute this Agreement on the last date written beside each Party representative's signature.

COUNTY OF STANISLAUS

By: 
Jim DeMartini
Chairman of the Board of Supervisors

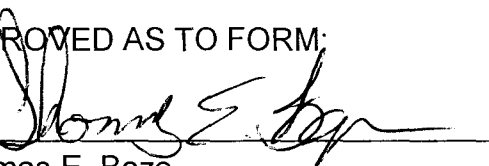
Date: 8/21/2018

ATTEST:

By: 
Elizabeth A. King
Clerk of the Board of Supervisors

Date: 8/21/2018

APPROVED AS TO FORM:

By: 
Thomas E. Boze
Assistant County Counsel

Date: 8/15/2018

**EXHIBIT 1
COST-SHARE SCHEDULE FOR CONSULTANT FEE**

Agency	% Share	Cost Share Base Fee	+	10% Contingency	=	Total
City of Oakdale	12.5	\$58,662.00		\$18,366.20		\$77,028.20
City of Riverbank	12.5	\$58,662.00		\$18,366.20		\$77,028.20
City of Modesto	12.5	\$58,662.00		\$18,366.20		\$77,028.20
City of Waterford	12.5	\$58,662.00		\$18,366.20		\$77,028.20
Stanislaus County	12.5	\$58,662.00		\$18,366.20		\$77,028.20
Tuolumne County	12.5	\$58,662.00		\$18,366.20		\$77,028.20
(To be paid by Stanislaus County)						
Oakdale Irrigation District	12.5	\$58,662.00		\$18,366.20		\$77,028.20
Modesto Irrigation District	12.5	\$58,662.00		\$18,366.20		\$77,028.20
Total	100.0%	\$469,296.00		\$146,929.60		\$616,225.60
DWR Grant						\$1,000,000.00
Cost Share Base Fee						\$ 469,296.00
(10% Contingency Fee, if needed)						<u>\$ 146,929.00</u>
TOTAL CONSULTANT AGREEMENT:						\$1,616,225.00
						\$1,616,225.00
(TOTAL CONSULTANT AGREEMENT – DWR GRANT)						<u>- \$1,000,000.00</u>
TOTAL Unfunded Balance						\$616,225.00